LANDMARKS IN INDIAN CONSTITUTIONAL AND NATIONAL DEVELOPMENT

VOLUME I

1600 — 1919

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ATMA RAM & SONS, DELHI-6

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IN

INDIAN CONSTITUTIONAL

AND

NATIONAL DEVELOPMENT

VOLUME I : 1600 TO 1919

by

GURMUKH NIHAL SINGH

M.Sc. (Econ.), London, Bar-at-law

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To

My Brother & Sister-in-law

Mr. & Mrs. SAINT NIHAL SINGH

with

Affection and Gratitude

106766

PREFACE TO THE FIFTH EDITION

With the winning of Indian Independence in 1947, an epoch of Indian history which had begun with the foundation of the East India Company in 1600 has come to a close and a new era has started from August 15, 1947.

The aim of this book is to deal with the constitutional development of India during the whole of the British Period, 1600-1947. The book is divided into two volumes—(1) from 1600 to 1919 (including the Reforms of 1919) and (2) from 1919 to 1947. I had hoped that I might be able to complete the writing of the second volume by the end of 1953 but that has not been possible even till this day.

Since May 1952 I have been drawn into the whirl-pool of practical politics and my official pre-occupations have prevented me from devoting adequate time to research necessary for the writing of the second volume and I doubt if it will be possible for me to redeem my promise of writing the second volume without the co-operation and assistance of other scholars. Unfortunately, the assistance promised in 1959 did not materialise and my indifferent health since my relinquishment of the office of the Governor in April last has not permitted me to do any research or writing work.

* * * * *

Since 1935, when the book was first published, the study of Indian Constitutional history has become an integral part of the courses of study in History and Political Science at the various Universities in the country. It is, therefore, not necessary today to dwell at length upon the importance of the study of constitutional history. The need of studying the political problems in their historical setting and perspective is self-evident. This, however, does not imply a belief in Sceley's famous dictum—History is the root and Politics is the fruit of History—or that the study of History and Politics is one and the same thing. Most modern writers regard this view as lopsided and they point out the necessity of studying the economic and geographical factors, the psychological and the biological principles, the ethical and the philosophical aspects, and of looking at the subject from both the historical and the sociological standpoints. None-the-less it is true to say that the study of constitutional history is essential for the proper understanding of constitutional problems and to get a real insight into the workings of a

political or constitutional system of government. I also regard constitutional history as a most important branch of national history. It supplies, what I may term, a key to the political soul of the people. The chronicle of the struggle for national freedom cannot but be soul-stirring and inspiring—however agonising and terrible may be the particular episode in it.

* * * * *

It may appear strange but it is unfortunately a fact that, in spite of the inspiring character and great importance of the subject, there is still a great paucity of good books on Indian Constitutional History. Until 1935 when the present study was first published there was only one book which purported to be a constitutional history of India. It was written by Mr. Archbold, one-time Principal of the M.A.O. College, Aligarh, who had played an important part in the arranging of the famous Muslim Deputation of October 1, 1906, which had put forward the demand for separate communal electorates and special weightage for the Muslims in political representation in connection with what came to be called the Morley-Minto Reforms. The book, as its name indicates, is merely an 'outline' and not a comprehensive study and does not deal with the currents of political and national life. The most useful part of the book is that which describes the development of the law courts. There were in 1933 three other books which dealt with the history of government in British India. One of them was by Sir Courtney Ilbert, the former Law Minister of the Government of India. It is an excellent book but its scope is very limited as is indicated by its title :—"A brief historical survey of parliamentary legislation relating to India". The other two books, Sapre's "Growth of the Indian Constitution and System of Administration" and C. L. Anand's "History of the Government of India, Part II", give a brief history of the various parts of the Indian system of government but they do not deal with the currents of life in the country and are in no sense books on constitutional history. The report on Indian Constitutional Reforms, 1918, gives the whole historical background and is particularly good in describing the growth of representative institutions in India

During the last fifteen years a number of books have appeared on Indian Constitutional History. The more important of them are :—"Constitutional History of India" ; Sethi and Mahajan : "Constitutional History of India", J. P. Suda : "Indian Constitutional Development and National Movement", and R. N. Aggarwala : "National Movement and Constitutional Development". Valuable work has been done in this connection by Professor R. Coupland in the first two parts of his Report on the Constitutional Problem in India entitled "The Indian Problem, 1813-1935" and "Indian Politics 1936-1942."

A number of books have been published on the National Movement in India. Perhaps the earliest was "The History of the Indian Nationalist Movement" by Sir Verney Lovett. It is more in the nature of a political pamphlet than a work on history though the writer was at the time Reader in Indian History at Oxford. Dr. Topa's book on "The Growth and Development of National Thought in India" is also disappointing. Dr. Topa has attempted too big a task in tracing the development from the earliest times to 1919. He is also not clear, particularly in the last part, as to whether he is writing a history of the nationalist thought or of the national movement. Histories of the national movement have also been written by several national leaders—among these may be mentioned:—"Young India" by Lajpat Rai ; "Indian National Evolution" by A.C. Mazumdar ; "How India Wrought for Freedom" by Mrs. Annie Besant ; "India's Struggle for Swaraj" by Pradhan ; "India's Fight for Freedom" by S.S. Caveeshur and the two-volume "History of the Indian National Congress" by Dr. Pattabhi Sitaramayya. Autobiographies and biographies of national leaders and British Administrators are of great value in understanding the national movement. Among them may be mentioned Sir Surendranath Bannerjee : "A Nation in Making" ; Mahatma Gandhi : "My Experiments with Truth", autobiographies of Pt. Jawahar Lal Nehru, Sriyut Subbas Chandra Bose and ex-President Rajendra Prasad, and the biographies of Lord Lytton, Lord Rippon, Lord Curzon, Lord Minto, Sir Pheroze Shah Mehta, Lokmanya Tilak, Deshbandhu C. R. Das, Mr. M. A. Jinnah, Sir Fazil-I-Hussain, Maulana Abul Kalam Azad, Pandit Jawahar Lal Nehru and Mahatma Gandhi—the last written jointly by Polak, Brailsford and Pathick Lawrence. Another biography by Mahatma Gandhi has been published recently, which is written by the well-known American Publicist, Mr. Louis Fischer. Recently there have been published several books which throw a great deal of light on the life and times of Mahatma Gandhi. Among them may be mentioned "The Life of Mahatma Gandhi" by Shri D. G. Tendulkar, in 8 volumes, the two volumes by Shri Pearey Lal, entitled ; "Mahatma Gandhi : The Last Phase" Vols. I & II and Maulana Azad's "India Wins Freedom". There are a number of publications dealing with the rise of the Muslim League and its demand for Pakistan ; among them may be mentioned, Noman : "Muslim India" ; W. C. Smith : "Modern Islam in India" ; B. R. Ambedkar : "Thoughts on Pakistan"; Rajendra Prasad ; "India Divided" ; Mehta and Patwardhan : "Communal Triangle in India" ; Beni Prasad : "The Hindu-Muslim Question" ; and S. U. Ansari ; "Pakistan : The Problem of India".

Recently two books have been published by Messrs. Orient Longmans written by Shri V. P. Menon—"The Integration of the Indian States" and "The Transfer of Power in India", which throw a flood of light upon the achievement of freedom and upon the integration of India.

There are three types of other publications which are of great value to the constitutional historian of India—(1) The Annual

Surveys and Periodical Reports ; (2) Reports of Committees and Commissions ; and (3) Books by publicists and foreign visitors. In the first category come the official reports on the moral and material progress of India called, from 1918 to 1935, when they were discontinued, "India in..." (the particular year) and "The Indian Annual Register" published by S. M. Mitra, Calcutta. Among the official reports and other publications special mention may be made of the following :—Report of the Indian Decentralisation Commission, Reports of the various Commissions on Public Services in India ; The Montford Report ; The Hunter Committee Report ; The Muddiman Committee Report, Proceedings of the Three Round Table Conferences ; the White Paper on Reforms, 1933 ; Reports of the Joint Select Committees of Parliament on the Reform Bills of 1919 and 1935 ; The Report of the Simon Commission with its bulky volumes of appendices ; and the reports of the various committees appointed in connection with the Reforms of 1919 and 1935. In the last category of books by foreign publicists may be mentioned those by Henry Nevinson and Sir Valentine Chirol ; Sir Henry Cotton and Sir William Wedderburn ; Sir Sydney Low and Commander Kenworthy ; Fenner Brockway and Nicholas Beverley ; Edward Thompson and G. T. Garrat ; Schuster and Wint ; Brailsford and Penderel-Moon ; Barton and Coatman ; Rushbrook Williams and L.S.S.O. Molly ; Cumings and Duffet ; Hicks and Parkin ; and Griffiths and Rawlinson.

There are a number of other books, reports, periodicals and newspapers which I have found useful in piecing together the story of the administrative, constitutional and national development in India. It is not possible to mention them all here. I have tried to acknowledge my indebtedness in each case to previous writers in the field in the footnotes in the book.

* * * * *

In the following pages an attempt has been made to describe in sufficient detail the foundation and expansion of British dominion in India ; the growth of the British system of administration and government in the country ; the beginnings and growth of political life in India ; the origin and development of Indian demand for association in the government of the country, the beginnings of the Indian National Movement and the causes of its origin, growth and development the struggle of the people for the achievement of their ambitions, demands, aspirations and ideals, the birth of Muslim communalism, its growth and development and its culmination in the demand for Pakistan with the resulting Partition and its more terrible consequences, bloody riots, large scale destruction, inhuman tortures, brutal killings and mass migrations, the working out of the policy of divide and rule, reforms and repression by the British Government ; the evolution and successful practice of the technique of non-violent, non-cooperation or *Satyagrah* and the achievement of political freedom without tears and with consent resulting in the retention of a link

with the Commonwealth and friendship with Britain. In doing so an effort has been made to go behind the facts and toget at the inner motives and meanings, to deal with all the complex factors instead of trying to find simpler explanations and to reproduce, so far as practicable, the atmosphere of the times and to give a complete picture of the different periods. For this purpose, it has often been necessary to give details of economic and social facts and movements, which would otherwise have found no place in the constitutional history of the country. In spite of this, however, it is possible that some may feel that there are certain omissions. All I can say is that I have tried my best not to omit any facts and details relevant to the purpose of this study.

In writing this book I have refained from passing any judgments. My object has been not to apportion praise or blame, but to state the facts in their scientific and historical setting.

* * * * *

The first volume is divided into two main parts, Part I deals with the Company Period, it is called "Company Rule in India". The treatment in this part is not detailed—it is intended to serve as an introduction and to make the picture complete of the political and administrative set-up of the government in India. For this reason attention is drawn prominently to such topics as the control of the Parliament and Ministers over the governments in India, the regulation and control of the press and public opinion in the country and use made of the policy of creating moral effect, as it is politely called.

Part II has been named more for the sake of logic and continuity of tradition—than for any belief in its utility or inherent superiority —"India Under the Crown". In my opinion, the scientifically correct title for Part II, which deals with the Period, 1861-1919, would have been "The Development of Representative Institutions in India". This was discarded at the last moment for the considerations mentioned above and for the convenience of printing. Its length would have proved troublesome in the use at the head of every page in Part II of the book.

Part II is divided into three well-known, natural periods, 1861-1892, 1892-1909 and 1909-1919—marked by the passing of the Reforms Acts of 1892, 1909 and 1919—the landmarks in the constitutional development of India, which are responsible for the title of the book : "Landmarks in Indian Constitutional and National Development". In each period events of administrative and constitutional importance are narrated in sufficient detail in their proper historical setting ; the factors responsible for constitutional changes and national progress are discussed and clearly stated, the struggle for further progress, its nature, course and results are then described and the net gain in the period indicated.

It was possible to adopt the other method of dealing with the subject, *i.e.*, topic-wise, instead of periodwise ; but I have preferred the latter course as more natural and useful. It is less abstract and more concrete and synthetic and permits easier adjustment to the march of events.

An effort has been made to make the book useful not only to the students of political science, history and Indian constitutional problems but also to all those persons who take an intelligent interest in public questions. The subject has been treated with such clarity as I could command and in as interesting a manner as possible, without, it is hoped, sacrificing scientific accuracy, which is the first requisite of a work of this type. Moreover, as I have stated elsewhere, "the University is the home of free thought and it is the privilege of a professor to discuss even delicate questions with perfect candour and impartiality —openly, frankly, without bias and animus". I have attempted to carry out this work in the same spirit.

* * * * +

I owe a deep debt of gratitude to a number of old friends and colleagues at the Banaras Hindu University, some of whom are, alas, no longer alive. I feel sure that my friends and colleagues at Banaras will not mind if I offer my thanks to them without mentioning their names here. To avoid discrimination I shall thank my young colleagues at the Ramjas College, Delhi, also anonymously. By name I shall express my deep indebtedness here only to my brother and sister-in-law, Saint and Catheylene Nihal Singh, to whom I dedicate with reverence and affection this volume in the preparation of which I have spent several years of my life.

In conclusion I wish to state clearly that I am alone responsible for whatever defects may be found in this volume.

New Delhi. GURMUKH NIHAL SINGH

January 20, 1963.

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PART I

COMPANY RULE IN INDIA

1

THE COMING OF THE BRITISH

I

Attracted by the stories of the fabulous wealth of India and by the growing prosperity of the Iberians through their trade with the East Indies, English adventurers set out on hazardous expeditions to find a new sea route[1] to this country. They suffered terrible hardships and enormous losses. Some of them lost their lives and ships in the attempt.[2] Some were forced to land elsewhere and to open trade relationships with other people.[3] But they persevered : they did not give up the attempt until they were convinced that rounding the Cape was the best way of getting to India and until they were sure of getting a footing there. A century's sad experience convinced them of the former and the growing might of England under Elizabeth gave them hopes of the latter. Accordingly some of the enterprising merchants of London formed themselves into a company[4] with the object of trading with the East Indies.

This company of London merchants was formed in 1599 and it secured from Queen Elizabeth a Charter on December 31st, 1600. The Charter vested the management of the Company in the hands of a Governor and 24 members, who were authorised to organise and to send trading expeditions to the East Indies. The Company was granted monopoly of the East Indian trade and was authorised to keep an armed naval force of a limited size[5] for its protection. The Charter was granted in the first instance for 15 years, to be renewed, if the interests of the Crown and the people were not

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1. The overland route was barred by Turkey and the route *via* the Cape of Good Hope was regarded as the monopoly of the Portuguese.

2. Early in the 16th century Sir Hugh Willoughby lost his life and ship in an attempt to reach India by a new sea-route.

3. Captain Chancellor was forced to go into the White Sea, from where he went over to Moscow and laid the foundations of the Anglo-Russian Trade and Company.

4. The Company took the title of the "Governor and Company of Merchants of London Trading into the East Indies."

5. The Charter authorised the Company to keep "six good ships and six good pinnaces well furnished with ordinance and other munitions.....and five hundred mariners....." Mukherjee : Indian Constitutional Documents, Vol. I, p. 14.

prejudicially affected. The Charter was terminable on two years' notice.

The London Company began as a "regulated"[1] and not as a "joint stock" company. The first voyages that were undertaken in the name of the Company were not joint expeditions but "separate voyages", as they benefited only those members who, of their own free will and choice, joined in each voyage. However, in 1612, it was felt necessary to have joint capital and all the members were asked to make their contributions, though in the beginning only for a definite and terminable period.[2] It was only in 1657 that the members subscribed a permanent joint stock and transformed the Company into a joint stock corporation.

II

Fortified with the Charter the London Company started on its most eventful career. It began to lay the foundations of a permanent Anglo-Indian trade by building up factories and establishing settlements at the important ports on the Indian coast. The first trading port established by the Company was at Surat,[3] where it secured a grant of land and other concessions from Emperor Jahangir. In 1616 a factory was established at Masulipatam. In 1633 a factory was started at Hariharpur (in the Mahanadi delta). In 1640 the fort of St. George was constructed at Madras. In 1650 the company obtained a license from the Governor of Bengal (which was confirmed by the viceroy of Aurangzeb when he conquered Bengal) to trade, erect factories etc., in the province. A factory was, consequently, started at Hugli, the Imperial port, but the Company was unable to make much headway from there, owing to the opposition of the new viceroy, Shaista Khan. Job Charnock was forced to abandon Hugli in 1686 and to move on to Sutanati, the site where Calcutta now stands. A factory was built there in 1690. The island and port of Bombay were presented to the Company by King Charles II in 1669 "to be held of the Crown for the annual rent of £10". The Company thus secured by the end of the 17th century important places on the coast of India, from where it could conveniently carry on its trade and other transactions.

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1. "The members of such a company were subject to certain common regulations, and were entitled to certain common privileges, but each of them traded on his separate capital, and there was no joint-stock." Ilbert : Government of India : Historical Survey, p. 7.

2. "The system adopted—that of terminable stocks—each of which was wound up in turn and its assets distributed." The Cambridge History of India, Vol. V, p. 89.

3. The Company's first two voyages were made not to India but to Achin (in Sumatra), Bantum (in Java) and the Molluccas. It was on the Third Voyage that arrangements were made to stop at Surat on the way to Bantum (24th August, 1608). But it was not until 1613 that the Royal Firman was issued and a permanent factory established at Surat.

III

The grant of a monopoly to a company might appear today as a serious infringement of the ordinary rights of citizenship but those were the days of privilege and monopoly, especially in foreign trade, and international conditions were such as to make the bulk of the people accept monopolies of closed corporations.[1] As pointed out by Ilbert, "for the successful prosecution of eastern trade it was necessary to have an association powerful enough to negotiate with native princes, to enforce discipline among its servants, and to drive off European rivals with the strong hand. The independent trader or interloper, was through his weakness, at the mercy of the foreigner, and through his irresponsibility, a source of danger to his countrymen".[2]

IV

The London Company, however, excited ire and jealousy from the beginning and was harassed by interlopers and rivals, both native and foreign.[3] Its first struggle was with the Assada Company, also known as the Courteen Association, after its founder, Sir William Courteen, who was able to get a license from Charles I, through influence at the Court. The Company had founded a settlement at Assada in Madagascar and carried on trade with great vigour for some time, inflicting serious losses on the London Company. Ultimately a compromise was arranged by which the Assada merchants were absorbed in the London Company. The fortunes of the Company were also adversely affected[4] by the civil war but the Protector came to its rescue, settled its differences with the native and foreign rivals and granted to it a new Charter in 1657, and converted it finally into a permanent joint stock company.[5]

By the regulations framed under this Charter any one could become a member by payment of an entrance fee of £5 and by subscribing at least £100 to the stock of the Company; but he could only vote in the general meeting or "General Court" if he held stock worth £500. All holders of £1,000 stock were eligible for election to the "Committees" or membership of the Court of Directors, eight of whom were to retire every year. The term of office of the Governor and of the Deputy Governor was reduced, in each case to two consecutive years at the maximum.

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1. The monopoly of Anglo-Russian trade was given to the Russian Company in 1553-53 and the monopoly of the Mediterranean trade to the Levant Company in 1581.

2. Ilbert : Historical Survey, p. 9.

3. For struggle with foreign rivals *see* pp. 8 and 9.

4. The Roundhead section of Parliament seized the cannon of the Company and took from it a forced loan of £5,000.

5. The Charter of 19th October, 1657, required the Company to have "one continuous joint-stock". Thus was the Company transformed in the words of Hunter "from a feeble relic of the mediaeval trade-guild into a vigorous forerunner of the modern Joint Stock Company".

After the Restoration the Company had a short spell of prosperity which reached its culmination in the eighties of the 17th century, when the Company was guided by the powerful personality of Sir Josiah Child and when the famous resolution of 1688 was passed.[1] But the situation changed for the worse for the Company after the Revolution of 1688.

The rivals of the Company took advantage of the Revolution and the changed political conditions and organised a serious opposition to it. In 1691 Parliament had recognised the beneficial nature of the East Indian trade and the advisability of leaving it in the hands of a joint stock company—and a proposal was made for the amalgamation of the London Company with the New Company formed by its rivals. However, Sir Josiah Child was successful in getting the Charter renewed in 1693 by giving huge bribes.[2]

By regulations framed under the Charter of 1693, the capital of the Company was increased by £744,000 and the largest amount to be subscribed by any single person was fixed at £10,000 and the largest number of votes for each subscriber at 10, *i.e.*, one for each £1,000 worth of stock.[3] All persons possessing £1,000 stock were eligible for Committees[4] ; but no one could become a Governor or Deputy Governor unless he owned £4,000 worth of stock. All transfers were to be recorded in a book which was to be open to public inspection. The joint stock was subscribed only for twenty-one years.[5]

Emboldened by the renewal of the Charter the London Company detained the Redbridge, which was believed to be bound for the East Indies. The Company's right of detention was questioned and the matter ultimately came before the Parliament. The House of Commons passed a resolution in 1694 "that all subjects of England have equal rights to trade to the East Indies unless prohibited by Act of Parliament". The monopoly of the London Company was thus destroyed for the time being and it was decided for all times to come that, to use the words of Lord Macaulay, "no power but of the whole legislature can give to any person or to any society an exclusive privilege of trading to any part of the world."

By the Resolution of 1694 the power of granting trade mono-

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1. The Resolution of 1688 says : "The increase in our revenue is the subject of our care.....as much as our trade ; 'tis that must maintain our force when twenty accidents may interrupt our trade ; 'tis that must make us a nation in India."

2. The secret service money account of the Company placed before the House of Commons in 1695 showed that £23,469 were expended between 1688 and 1692 and £30,468 in 1693". Thakore : Indian Administration to the Dawn of Responsible Government.

3. "The qualification for a single vote was reduced to £500 and the maximum number of votes to five by the Charter of 1698."

4. Raised to £2,000 in 1698.

5. *See* Ilbert : Historical Survey, p. 26.

poly was shifted from the Crown to the Parliament and both the Old and the New Companies began to approach the Legislature, through the Rt. Hon'ble Mr. Montagu, the then Chancellor of the Exchequer, for an Act. Montagu was in great need of money and the monopoly of the trade "was virtually put up to auction[1] between the contending bodies". The Old Company had already spent high sums on bribes and had recently suffered great losses during the war with France and could only offer a loan of £700,000 at 4 per cent interest and that also by increasing its capital to £1,500,000. But the New Company was willing to lend £2,000,000, the amount Montagu wanted, at 8 per cent interest. A bill was, therefore, introduced in Parliament providing "for a subscription of £2,000,000 Sterling as a loan to the State, which in return would grant to a 'General Society' made up of the subscribers the exclusive right of trading to the East Indies".[2] The Old Company was to be given three years' warning as required by its Charter, *i.e.*, till September 1701. When the Old Company realized that its monopoly could not be saved in any other way it offered to find the whole money, but the proposal came too late and the bill giving the monopoly to the New Company was passed by the two Houses and received Royal assent in July 1698.

The Act of 1698 gave the subscribers of the loan the option either of trading separately to the value of the amount subscribed by each or of uniting "under a Royal Charter for the purpose of trading in common".[3] "The great bulk of the subscribers chose the latter alternative, and on the 5th September, 1698, they were accordingly incorporated by Royal Charter under the style of "The English Company trading to the East Indies". The management was entrusted to twenty-four directors, who were to appoint from among themselves a chairman and a deputy-chairman; and we may note in passing that the shareholders were not required as in the earlier Company, to pay a separate sum for admission to the freedom".[4]

As a result of the passing of the Act of 1698 there followed a period of cut-throat competition between the two Companies, in which the principles of fair trade and honest dealings were all thrown to the winds. The Old Company had the advantage of experience and long standing and it had also obtained an interest in the New Company by subscribing £315,000 to the capital of £2

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1. "The system (of obtaining loans for the State in return for exclusive privileges) was an advance on that under which bodies of merchants had obtained their privileges by means of presents to the King or bribes to his miniters, and was destined to receive much development in the next generation." Ilbert : Historical Survey, p. 28.

2. Foster : Chapter IV, Cambridge History of India, Vol. V, pp. 98-9.

3. Ilbert : Historical Survey, p. 28.

Foster : Cambridge History of India, Chapter IV, Vol. V, pp. 98-9.

millions to safeguard against eventualities. The New Company, on the other hand, could afford to wait till the Old Company was wound up in 1701. The situation, however, became very serious in the meantime. The New Company began to lose very heavily. There was nothing for it to do but to come to some sort of understanding with the Old Company. A compromise was, therefore, arranged through the intervention of Lord Godolphin by which the two Companies agreed to amalgamate after their stock had been valued and equalised. By this agreement of 1702 "the Old Company was to maintain its separate existence for seven years, but the trade of the two companies was to be carried on jointly, in the name of the English Company, but for the common benefit of both under the direction of twenty-four managers, twelve to be selected by each Company. At the end of the seven years the Old Company was to surrender its charters", and the trade was to be carried on by the New Company under the name of "The United Company of Merchants of England trading to the East Indies".[1]

The Agreement of 1702 gave rise to disputes and difficulties to settle which an Act was passed in 1707 by which the New Company was required to give an additional loan of £1,200,000 to the State free of interest—thus reducing the rate of interest on the total debt of £3,200,000 to 5 per cent. In return the English Company's exclusive privileges were extended to 1726 and the right of buying out those members of the "General Society" who had decided in 1698 to trade on their own account, was granted to it. Lord Godolphin was appointed arbitrator to settle outstanding questions between the two Companies. He gave his award in September 1708 and in March 1709 the Old Company surrendered its charters to the Queen. Thus ended the separate existence of the London Company. The New Company transformed into "The United Company of Merchants of England trading to the East Indies"[2] took up the work of the Old Company and started on its eventful and prosperous career.

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1. Ilbert : Historical Survey, p. 30.

2. Auber gives the constitution of the United Company as follows :

"The Company consisted of all persons holding a share into the capital stock, then amounting to £2,000,000. Every individual, whether male or female, possessing £500 stock, either in his or her own right or otherwise, was entitled to vote and to take part in discussions in the meeting of Proprietors, who when assembled were termed by the Charter a "GENERAL COURT OF PROPRIETORS". The Proprietors were to elect out of their body, every year, twenty-four members each possessing £2,000 stock, to be Directors of the Company. Thirteen members formed a quorum and when assembled for business were termed a "COURT OF DIRECTORS". By the Charter four General Courts are to be held in the year, each quarterly. A committee was to be chosen to frame by-laws for the government of the Company, which laws have the same force as those framed by Parliament when not opposed to any existing Act". The Rise and Progress of British Power in India, p. 13.

V

The birth of the United East India Company synchronised with the exit of the great Moghal personality of Aurangzeb—a coincidence which had great influence on the course of later history in India. But before the United Company could establish its supremacy in India it had to contend with serious opposition both from European rivals, particularly France, and from the Indian Rulers.

The power of the Portuguese had been destroyed before the middle of the 17th century and the Treaty of Munster, 1648, limited the Portuguese possessions in India to Deo, Daman and Goa on the western coast.[1] From 1648 the Portuguese ceased to count in the East.

The struggle with the Dutch continued much longer. The Dutch action at Amboyna in 1623—where they murdered all the English—made the London Company to retire from the trade with the Spice Islands and to concentrate its energies on the Indian trade. However, the Company was able to get a compensation of £85,000[2] in 1654 through the Treaty of Westminster concluded after a fight for three years between Britain (under Cromwell) and Holland. Ultimately, the Dutch power was broken up by the French in Europe and the Dutch commercial supremacy in the East came to an end by 1697, when the Peace of Ryswick was made.

VI

The seventeenth century thus saw the elimination of England's two great European rivals but there still remained the French who had entrenched their position on the Eastern Coast of India at Pondicherry near Madras and Chandernagar near Calcutta.[3] The French Governors cultivated the friendship of Indian rulers and were able to establish their power and prestige in the country.

The real struggle for mastery between the French and the British began in India in 1741 with the appointment of Dupleix as Governor of Pondicherry. It continued for full 20 years but during the first eight years, *i.e.*, till 1749, the advantage was decidedly with the French. The tide turned with the capture of Arcot by Clive but it was not until 21st January, 1760, that the French power was finally broken and the British achieved a decisive victory at Wandewash.

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1. These Portuguese possessions were freed of Portuguese yoke after Police Action in 1961.

2. However, Cromwell borrowed £50,000 out of it for the Commonwealth Government.

3. Yaman, Karikal and Mahe are the other three French possessions in India. Chandernagar voted for merger on 19th June, 1949, with India and the other four French possessions have since been transferred to India.

VII

Meanwhile important events were taking place in Bengal.

Siraj-ud-Daulah, the new Nawab of Bengal, irritated by the arrogance and unfriendly acts[1] of the English attacked Calcutta in 1756. The Governor (Drake) and the military commandant left the garrison to its fate—flying themselves to the British ships on the Hugli. After a short resistance Fort William surrendered and the tragedy of the so-called Black Hole took place.[2] Clive and Watson were sent from Madras to exact restitution and reparation. They captured the Fort of Baj-Baj without delay and took Fort William on January 2nd, 1757. The fort of Hugli was taken a week later. A treaty was concluded with the Nawab on the basis of restitution and compensation.

Clive settled down at Calcutta and began to intrigue with the ministers of the Nawab. He entered into a treaty with the Nawab's Commander-in-Chief, Mir Jaffar. Clive cheated poor Omi Chand of his reward through fraud and forgery.[3] Thus fortified Clive marched to meet the Nawab's army towards Murshidabad. The fight took place at Plassey. The Nawab's army gave way. Siraj-ud-Daulah fled away in disguise but was captured and thrown into prison. He was murdered later by a son of Mir Jaffar. The treaty was kept by the British and Mir Jaffar was proclaimed the Nawab on June 27, 1757.

VIII

By 1761 the English were masters of the situation; they had defeated the French and Siraj-ud-Daulah; they were supreme both in the South and the East. Luckily for them the greatest Indian Power of the time, the Marathas, who might have threatened their imperialistic plans—suffered a great set-back in 1761 by their defeat at Panipat. The way was thus open for the extension of British Dominion in India.

Clive clearly saw the future before the British in India. He very cleverly and securely laid the foundations of his Empire.

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1. See the Despatch of the French Council in Keith: Speeches and Documents on Indian Policy.

2. It is not necessary here to enter into the long controversy that has raged among historians on the question of the Black Hole. The majority of Indian writers and some of the English and foreign historians believe that the event never took place or if it did take place it must have been on a very much smaller scale; otherwise it would not have escaped mention by contemporary writers or in the Bengal Council's despatches to the Court of Directors. M. Martineau, an ex-Governor-General of French-India and a great French authority on this period is of opinion that "until further evidence is forthcoming" the documents already known are not sufficient "to pass a decisive judgment on the incident of the Black Hole".

3. Attempt is made by some English writers to whitewash the conduct of Clive by an attack on the morality of Orientals and by saying that Clive only imitated the tactics of "the natives". But, surely this can be no justification; Admiral Watson did not regard it so.

Instead of following the policy of rapid expansion and armed conquest he proceeded warily and shrewdly, getting a grant of land here and the right of collecting and administering the revenue there, lest he should arouse serious opposition and the Indians should unite to turn out the foreigners.[1] Clive managed the situation beautifully. He recognised the sovereignty of the Moghal Emperor at Delhi and approached him on August 12, 1765, to cede to the Company the Sarkars, to separate Carnatic from Hyderabad, and to grant the Company the Dewani[2] of Bengal. He conciliated the Raja of Berar instead of capturing his territories to connect Bengal with the Sarkars. He did not annex Oudh after Buxar but made the Nawab his ally. He did not fight the Marathas but recognised their right to Chouth in Orissa. He allied himself with the Nizam to balance the power of the Peshwa in the Deccan. In this manner he fortified the position of the United East India Company and laid the foundations of the British Empire in the East.

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1. Writes Professor A. B. Keith in his preface to "Speeches and Documents on Indian Policy" :—"The stubborn resistance of Mir Kassim had impressed on him (Clive) the danger lest the natives, left without European allies, would find in their own resources means of carrying on war against us in a more soldierly manner than they ever thought of when their reliance on European allies encouraged their natural indolence."

2. Clive had tried to persuade Pitt in 1759 to get the Subaship of Bengal for the English. See pages 12 to 17. Keith : Speeches and Documents on Indian Policy, Vol. I.

2

THE BEGINNINGS OF BRITISH RULE

I

The grant of Diwani in 1765 caused a great glee in the hearts of the Proprietors of the Company. They were dazzled by golden visions of the future. Clive estimated in 1765 the total revenue of Bengal at £4 millions, and the net income of the Company—after defraying all expenses at £1,650,000. The stock of the Company went up to 267 and the dividends to 12½ per cent in 1767. Servants of the Company took back with them tremendous fortunes and set themselves up in England as "Nabobs", with country seats and pocket boroughs.[1] The members of the House of Commons saw the opportunity of getting the much needed funds for the State and of justifying themselves in the eyes of their electors by making the Company pay. They were, however, guilty of a serious breach of trust in "tacitly conniving[2] at the misgovernment by requiring in 1767 an annual payment of £4,000,000 from the Company as the price[3] of permission to remain in possession of the territories acquired by it in India".[4] Ever since Montagu hit upon the plan[5] the United Company had paid for the renewal of its powers. By 1750, the Company had lent in this way a sum of £4,200,000 to the State at the interest of 3 per cent. In 1767 Parliament passed an Act demanding the payment of £400,000 annually for two years in consideration of which the Company was to retain its territorial possessions and revenues for the same period. This agreement was extended for five years in 1769.

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1. For a description of the typical Nabob see Disraeli's Sybil, Chap. III.

2. Burke contended that the ministers had "sanctified this bloodshed, this rapine, this villainy, this extortion—for the valuable consideration of £400,000...This crime tax being agreed to, we heard no more of malpractices..." Roberts, Cambridge History of India, Chap. X, Vol. V, p. 188.

3. "Thus the State claimed its share of the Indian spoils, and asserted its right to control the sovereignty of Indian territories." Ilbert: Historical Survey, p. 39.

4. Keith: Speeches and Documents on Indian Policy, Vol. I, p. XI.

5. See p. 5 *Supra*.

II

Meanwhile the position in India was growing very serious.

The possessions of the Company were grouped in three Presidencies. Each Presidency had its own government—the Governor and Council—separate and independent and responsible directly to the Directors in London. The Governor and the Councillors were appointed from among the senior servants of the Company by the Directors. The number of Councillors varied from twelve to sixteen, but some of them were often absent from the headquarters, being incharge of factories in the interior. The power was vested in the Governor and Council jointly and could only be exercised through a majority of votes. The members of the Council had become so scattered of late that it had grown very difficult to cope with business. Clive was, therefore, allowed to delegate the functions of the Council to a Select Committee.

Difficulties were being experienced in Bengal, Bihar and Orissa in connection with the administration of justice. "By the Charter of 1753 Mayors' Courts had been established for the Presidency towns, with civil, criminal and ecclesiastical jurisdiction between Europeans in these towns or in factories dependent on them."[1] But since then the number of Englishmen in the mufassal in the Presidency of Bengal, Bihar and Orissa had greatly increased. "The Company had no authority by the law of England to punish them outside the jurisdiction of the Calcutta Mayor's Court, unless they came to England, in which case the evidence of witnesses might not be available."[2] It was felt that this difficulty could only be solved by the establishment of a Supreme Court in the Province.

Under the Governor and the Council was a body of civil and military servants classified into writers, factors—junior and senior—and merchants. Their promotion was ordinarily regulated by seniority. Their salaries were ridiculously small : a writer of five years' standing getting only ten pounds a year, the pay of a Councillor was £80 a year and that of the Governor £300 per annum. But their gains were outrageously large. Experience had made them very skilful in the art of extracting presents, bribes and levies from the poor people. In the words of Lecky : "Never before had the natives experienced a tyranny which was at once so skilful, so searching and so strong.....whole districts which had been populous and flourishing were at last utterly depopulated, and it was noticed that on the appearance of a party of English merchants the villages were at once deserted and the shops shut, and the roads thronged with panic-stricken fugitives." The sufferings of the people reached their maximum in 1770-71 when

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1. Yusuf Ali : The Making of India, pp. 218-19.

2. The Parliamentary Committee of 1773 traced nearly £6 millions thus extorted from the people during 1757-1766, excluding the amount received by Clive from Mir Jaffar.

owing to failure of crops severe famine visited Bengal. The servants of the Company were, however, so cruelly and shamelessly greedy that they made capital out of poor peoples' afflictions and utilised famine conditions for their private lucre. The looting[1] by the Company's servants was so heartless and cruel and the sufferings of the people so intense that the members of the Parliament were at last moved into action.[2] On the motion of Colonel Burgoyne in the House of Commons a Select Committee of 31 members was appointed to enquire into the affairs of the East India Company on April 13, 1772.

Meanwhile the position of the Company was becoming very serious : it was rapidly heading towards bankruptcy. In August 1772 the officers of the Company approached Lord North for a loan confessing their inability to meet their expenses. Thanks to the rapacity of its servants the Company's income had rapidly dwindled. Its expenses had greatly increased owing to the extension of territory and the necessity of maintaining a large army and of going to war frequently. Recently the Company had suffered a heavy and expensive defeat at the hands of Haider Ali in the South. The Company was short of £1,293,000 for making the necessary payments in the next three months. Nothing but a loan from the State could save the Company from ruin.

On the reopening of the Parliament on the 26th November, 1772, Lord North moved for the appointment of a Secret Committee to enquire into the affairs of the Company. The Committee issued its first report with great alacrity and the Parliament passed an Act in December 1772 restraining the Company from sending a Commission of supervision to India.

The Secret Committee continued its work and submitted its final report on May 3, 1773, as a result of which it was decided to regulate the government of the East Indies. Colonel Burgoyne and Sir William Meredith[3] made scathing criticism of Indian administration on 10th May. On May 18th, Lord North introduced his famous

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1. Writes Horace Walpole :—

"Such scene of tyranny and plunder has been opened up as makes one shudder.....We are Spaniards in our lust for gold and Dutch in our delicacy of obtaining it."

2. "The enormous fortunes amassed by the Company's officers, the suspicion in the popular mind that the wealth of these 'Nabobs' was ill-gotten, the Parliamentary influence of the fortunes of the Company's servants exercised in England and a doubt whether a trading corporation could have a right to acquire on its own account, powers of territorial sovereignty...these things compelled the nation's attention to the affairs of the East India Company and the House of Commons appointed a committee to enquire into and report upon various matters connected with the Indian Administration of the Company." Kale : Indian Administration, pp. 17-8.

3. "Merchant Sovereigns", said Sir William Meredith, "are always dangerous, for their rule of selling is to take as much as they please and the rule by which they buy is to pay as little as they please." Quoted by Chuni Lal Anand : History of Government in India, Part II, p. 14.

Bill, which became the Regulating Act of 1773. Another Act was passed by Parliament to solve the financial difficulties of the Company. By this Act a loan of £1,400,000 was granted by the State at 4 per cent interest, and the annual payment of £400,000 was suspended until the loan had been discharged. The Company was prohibited from declaring a dividend of more than 6 per cent as long as the money was not paid back. The dividend was not to be increased above 7 per cent until the bond debt was reduced to £1,500,000 The Company was obliged to submit its accounts to the Treasury every half year. "It was restricted from accepting bills drawn by their servants in India far above £300,000 a year, and it was required to export to the British settlements within its limits British goods of a specified value."[1]

III

From the very beginning the right of the Company (a trading corporation) to acquire political sovereignty on its own account was questioned and the Parliament was asked to intervene. But with the accumulating evidence of the misuse of political power by the servants of the Company, the feelings against the retention of territorial sovereignty by the Company were greatly strengthened. Attempts were made to take away political power from the Company but without success. But when the Company approached Parliament for financial help the opportunity was taken for regulating the administration of India—both at home and in India. This was done by the Regulating Act of 1773.

The Act of 1773 is of great constitutional importance because it definitely recognised the political functions of the Company, because it asserted for the first time the right of Parliament to dictate the form of government in what were considered till then the private possessions of the Company[2] and because it is the first of a long series of Parliamentary Statutes that altered the form of government in India. The sole right of Parliament to impose whatever constitution it may deem fit or necessary on the people of India was finally and emphatically asserted in the Preamble of the Government of India Act, 1919.

The Home Government in 1773 consisted of the Court of Proprietors and the Court of Directors. The Directors, 24 in all, were elected annually by the proprietors possessing stock worth £500 from among those who owned stock worth £2,000 or more. The term of office of the Directors was too short for strength, stability or continuity of policy. They had, moreover, to please a large number of Proprietors to secure re-election and were thus under the undue influence of the Court of Proprietors. The Act of

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1. Ilbert : Historical Survey, p. 42.

2. There was an important section of the people who regarded the Act of 1773 as a high-handed measure, which invaded the rights and property of a private corporation.

1773 gave the vote only to those Proprietors who had owned £1,000 worth of stock for twelve months preceding the date of election and raised the term of office of Directors to four years, one-fourth of them retiring every year. The Directors were required to submit copies of letters and advices received from the Governor-General in Council—copies of the parts relating to the management of revenue to the Treasury and of the parts relating to the civil and military government to one of the Secretaries of State. All Governments in India were to pay due obedience to the orders of the Directors and were to keep them constantly informed of all matters affecting the interests of the Company.

Until the passing of the Act, the three Presidencies were separate and independent of one another, having direct communication and relationship with the Court of Directors in London. The Act of 1773 took the first step in the unification of India. It appointed a Governor-General and four Councillors for the Presidency of Fort William in Bengal and vested in them not only "the whole civil and military government of the said Presidency, and also the ordering, management of and government of all territorial acquisitions and revenues in the kingdoms of Bengal, Bihar and Orissa.....to all intents and purposes whatsoever, as the same now are, or at any time heretofore might have been exercised by the President and Council or Select Committee, in the said kingdom[1], but also the "power of superintending and controlling the government and management of the presidencies of Madras, Bombay and Bencoolen[2] respectively" as far as the making of war and peace was concerned except in cases of emergency or direct orders from the Directors in London. The Governors in Council were required 'to pay due obedience to such orders as they shall receive, touching the premises" from the Governor-General in Council, to submit to them "advice and intelligence of all transactions and matters whatsoever that shall come to their knowledge, relating to the Government, revenues or interest of the Company", and to forward all rules and regulations framed by themselves. The offending Governors in Council could be suspended by the Governor-General in Council.[3]

The first Governor-General and his four Councillors were named in the Act. Warren Hastings Esquire was to be the first Governor-General, and Lt. General Clavering, the Hon'ble George Monson, Richard Barwell Esquire, and Phillip Francis Esquire the first four members of the Council. They were to remain in office for five years, and were not "removable in the meantime, except by His Majesty—upon representation made by the Court of Directors".[4]

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1. Clause VII, East India Company Act, 1773, (13 Geo. III, c 63).
2. Bencoolen or Fort Marlborough is in Sumatra and was given over to the Dutch in 1824 by the London Treaty. See Footnote 1, p. 43. Ilbert : Historical Survey.
3. Clause IX of the Act.
4. Clause X of the Act.

After the first five years the appointments were to be made by the Court of Directors.

The authority was vested in the Governor-General and the Council jointly and all matters were to be decided by the majority of those present. The Governor-General was given a casting vote in case of equality of votes due to death, removal or absence of any member of the Council.

The Governor-General in Council were empowered to make and issue "rules, ordinances, and regulations for the good order and civil government"[1] of the Company's settlement at Fort William and the factories and places subordinate thereto, provided that they were not "repugnant to the laws of the realm". The rules and regulations were not valid until "duly registered and published in the Supreme Court...with the consent and approbation of the said Court" and could be set aside by the King in Council on the application of any person or persons in India or in England.[2]

The Act of 1773 further empowered His Majesty to establish by charter or letters patent "a supreme court of judicature at Fort William.....to consist of a chief justice and three other judges, being barristers in England or Ireland of not less than five years' standing, to be named from time to time by His Majesty". The Court was to have the power of trying civil, criminal, admiralty and ecclesiastical cases and "to appoint such clerks and other ministerial officers.....with such reasonable salaries, as shall be approved of by the said Governor-General in Council" and to frame rules of procedure and to do such other things as might be found necessary for the administration of justice and the execution of powers conferred on it by the charter. The Supreme Court was also to be a court of record and a court of oyer and terminer and gaol delivery in and for the town of Calcutta, the factory of Fort William and the other factories subordinate thereto.[3] Its jurisdiction was to extend to all British subjects residing in Bengal, Bihar and Orissa, to cases of "complaints against any of His Majesty's subjects for any crimes, misdemeanours or oppressions"; and to suits, actions or complaints against any person in the employment of the Company or of any of His Majesty's subjects.[4] The Court was empowered to hear and determine suits and actions by His Majesty's subjects against "the inhabitants of the country" residing in Bengal, Bihar and Orissa on any contract in writing involving more than Rs. 500 and providing for reference to the Supreme Court in case of dispute. The Act is silent as to the jurisdiction of the Court for other civil cases against "inhabitants" (*i.e.*, where the parties have not agreed to refer cases to the Supreme Court), and

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1. Clause XXXVI of the Act.
2. *Ibid.*
3. Clause XIII of the Act.
4. Clause XIV of the Act.

in civil suits by "inhabitants" against British subjects or other "inhabitants". The Court possessed both original and appellate jurisdiction.

The Supreme Court was to try all cases by a jury of British subjects residing in Calcutta, and an appeal was to lie to the King in Council.

The Court was not competent to hear, try, or determine any indictment or information against the Governor-General or any member of his Council for any offence, not being treason or felony, alleged to have been committed by any of them in Bengal, Bihar or Orissa. And the Governor-General, members of the Council and the judges of the Supreme Court were exempt from arrest or imprisonment in any action, suit or proceeding in the Supreme Court. This exemption was limited to civil cases only.

Such a Court was constituted by the Charter of March 26, 1774, with Sir Elijah Impey as Chief Justice and Chambers, Lemaister and Hyde as the puisne judges.

The Governor-General, members of this Council and the judges of the Supreme Court were empowered and required to act as justices of the peace for the Settlement of Fort William, and factories subordinate thereto and to hold Quarter Sessions four times a year, and be a court of record all the time.

The Act of 1773 besides introducing the above modifications in the constitution of the Government of India, tried to put down bribery and other abuses which were rampant among the servants of the Company in India.

The Act prohibited the Governor-General, members of his Council, and the judges of the Supreme Court from receiving directly or indirectly any presents, gratuities or pecuniary rewards and from engaging or being concerned in any transactions, "by way of traffic or commerce of any kind whatsoever...(the trade and commerce of the said United Company only excepted)."[1] "No person holding or exercising any civil or military office under the Crown, or the said United Company in the East Indies, shall accept, receive or take, directly or indirectly.....of and from any of the Indian Princes or powers or their ministers or agents (or any of the natives of Asia) any present, gift, donation, gratuity, or reward, pecuniary or otherwise."[2] Offenders were to forfeit double the amount received and might be removed to England. No collector, supervisor or any other British subject concerned in the collection of revenue or administration of justice in Bengal, Bihar and Orissa was to be concerned, directly or indirectly, in trade, traffic or commerce, except on the Company's account. No British subject was to lend money at a higher rate of interest than 12 per cent. Servants of

1. Clause XXIII of the Act.
2. Clause XXIV of the Act.

the Company convicted by any court in India for breach of public trust, for embezzlement of public money or stores or for defrauding the Company could be fined, imprisoned and sent to England. If any Governor-General, Governor, member of Council, judge of the Supreme Court or any other servant of the Company commits any offence against the Act or is alleged to be guilty of any crime, misdemeanour, or offence against any British subject or inhabitant of India, he might be tried and punished by the Court of the King's Bench Division in England.

In order to place the Governor-General, members of Council and the judges above temptation they were provided with liberal salaries. The salary of the Governor-General was fixed at £25,000 annually, that of each member of the Council at £10,000, that of the Chief Justice at £8,000 and that of each puisne judge at £6,000 a year.

IV

"The object of the Act", said Mr. Bouten Rouse, when it came up for amendment before the House of Commons "was good, but the system that it established was imperfect". The main cause of the imperfections was the novel nature of the problem with which the Parliament had to deal. It was fortunate for the British that the defects, many and serious as they were, did not prove fatal.[1]

In the first place, the Act did not clearly define the jurisdictions of the Governor-General-in-Council and the judges of the Supreme Court or their relationship with each other. The powers of the Governor General were partly inherited from the Mughal Subahs of Bengal, which could not be defined by the Parliament. In order, therefore, to place some other check on the executive the Parliament vested the Supreme Court with the extraordinary right of vetoing legislation passed by the Governor-General-in-Council. The ambiguity and clash of jurisdictions,[2] however, created a situation that bordered on anarchy in Bengal. The opposition between the Governor-General-in-Council and the Supreme Court crystallised itself round four points[3] :—

The first point of conflict was the claim of the Supreme Court to serve writs on all the inhabitants of the country and to make them plead before itself. The Governor-General-in-Council sucessfully resisted the claim. Under the orders of the Council the Sheriff

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1. "It (the Act of 1773) created a Governor-General who was powerless before his own Council, and an executive that was powerless before a Supreme Court, itself immune from all responsibility for peace and welfare of the country—a system that was made workable, by the genius and fortitude of one great man." Report on Indian Constitutional Reforms, 1918, p. 17.

2. Chuni Lal Anand : Introduction to the History of the Government of India, Part II, p. 22.

3. Ilbert : Historical Survey, pp. 54-6.

and his officers were prevented by a company of sepoys from executing a writ against a zamindar in what is known as the Cassijurah Case. The Council's action was not questioned by the authorities in England, perhaps because it was felt that the Act was against the Court. As already stated,[1] the jurisdiction of the Court over the inhabitants of the country was limited by the Act to cases of contract, where the parties had mutually agreed to refer disputes to the Supreme Court. The Court was, therefore, clearly in the wrong to force inhabitants of India to plead before itself.

The second point of difference was as to the jurisdiction over the revenue collectors of the Company for wrongs done in their official capacity Here the Court was on a firm ground. The Act had expressly given this jurisdiction over the servants of the Company to the Supreme Court and the Company had no option but to acknowledge it, however distasteful it might have been to the officers of the Company. There were, however, questions to which the Act gave no answer :—Who were the servants of the Company ? What actually constituted employment under the Company ? And upon whom did the burden of proof lie ? Were, for instance. the *zamindars* or the farmers of revenue, Company's servants ? The Court held that they were, but the persons concerned and the Company's chief officers did not accept the view of the Court.

The third point of conflict was the claim of the Court to try suits against the judicial officers of the Company for acts done by them in their official capacity. The Court had awarded heavy damages to an Indian plaintiff against the officers of the Patna Provincial Council for actions done by them in their judicial capacity. The Supreme Court was acting within the jurisdiction in thus punishing the judicial officers of the Company. The only question was : whether the actions concerned were done *bonafide* in the discharge of judicial duty or not. Sir James Stephen holds the decision of the Supreme Court to be both just and technically sound.

The fourth point of quarrel was the refusal on the part of the Supreme Court to recognise the jurisdiction of the Provincial or Country Courts.[2] It released revenue defaulters imprisoned by Provincial Courts under writs of *habeas corpus*. When once the attorney of the Company pleaded the authority of the Provincial Court in reply to a writ of *habeas corpus* issued by the Supreme Court for the release of a district treasurer imprisoned on a charge of embezzlement, the Supreme Court replied, "We know not what your Provincial Chief and the Council are : you might just as well have said that he was confined by the king of fairies." Warren Hastings tried to remove this friction between the Supreme Court

1. See p. 15 *supra*.

2. See Section VIII of this Chapter for a description of the Country Courts.

and the Country Courts by appointing the Chief Justice, Sir Elijah Impey, judge of the Sadar Diwani Adalat[1] as well, thus vesting in him the appellate and revisional controls over the country courts. But that made Impey a servant of the Company which was inconsistent with his position as Chief Justice of the Supreme Court. The position was made worse by Impey's acceptance of a big salary from the Company as a Judge of the Sadar Diwani Adalat.

In the second place, the Act of 1773 did not make clear as to what law the Supreme Court was to administer. Was it to administer the personal law of the defendant (Mohammedan, Hindu or English Law according to the community to which he belonged) ? Or was it to administer the English Law in all cases ? The judges who were appointed were learned in English law and steeped in English traditions. They were altogether unfamiliar with Codes of Indian Laws, and the customs and traditions of the Indian people. Nor did they care to acquaint themselves with them. They imported wholesale the English system of law and procedure. The inhabitants of the country were horrified. "The astonished and terrified natives of Bengal, now beheld the extraordinary spectacle of English bailiffs, accompanied by considerable body of armed Europeans, traversing the country, at the distance of some hundreds of miles from Calcutta, to execute by force the decrees of the new judicature, founded upon laws and distinctions which they were utterly incapable of comprehending." In enforcing the decrees the bailiffs, ignorant of the usage of the land, violently broke into the apartments of women and places of domestic worship, and idols which had been sanctified by the reverence of ages "were dragged from their places by profane hands, and thrown amongst the heap of household furniture and lumber, which was collected to answer the ends of the execution."[2] This naturally created great consternation and resentment and might have led to serious consequences, if the Governor-General in Council had not intervened and the Parliament had not passed the Amending Act of 1781.

Thirdly, the Act was defective in placing the Governor-General at the mercy of his Council. Among the Councillors that were appointed only one, Barwell, had any experience of Indian administration. The other three, Francis, Clavering and Monson had no knowledge of Indian conditions. They came to India prejudiced against the Company and its servants, with their ideas and plans for governance formed before hand, pledged to act together and concentrate all powers in their hands. As long as the combination lasted the Governor-General and Barwell were helpless :— the opposition of the three was so reckless and uncompromising that by 1776 Warren Hastings was forced to think seriously of

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1. The Sadar Diwani Adalat was the highest civil court of the Company in Bengal. The Sadar Diwani Adalat and the Supreme Court were fused into one by the High Courts Act.

2. Chuni Lal Anand : History of Government in India, Part II, pp. 19-20.

resignation. He went so far as to give conditional authority to his agents in London to tender his resignation. The resignation was accepted by the Court of Directors, who took immediate steps to fill the vacancy. But, in the meantime, Clavering died. Warren Hastings at once withdrew his authority and obtained an opinion from the Supreme Court that his resignation was invalid. Now that the combination could be defeated by the use of his casting vote Warren Hastings had no wish to relinquish such a lucrative post. He was allowed to retain his post, but the Parliament made provision in the Acts of 1793 and 1833 to prevent such occurrences in future. The resignation of the Governor-General was not to be valid until it was signified by a formal deed.

Lastly, the changes made by the Act of 1773 in the constitution of the Home Government of the Company were not free from defects. The raising of the qualifications meant the disenfranchisement of 1246 small holders of stock and the transformation of the Court of Directors into a more or less permanent[1] oligarchy. The Ninth Report of the Select Committee of 1781 remarked : "The whole of the regulations concerning the Court and Proprietors relied upon two principles, which have often proved fallacious, namely that small numbers were a security against faction and disorder, and that integrity of conduct would follow the greater property."[2] Mr. Roberts states in Chapter X of the Cambridge History of India, Vol. V, that "it was generally held that the Clause (relating to the change in the constitution of the Court of Directors) failed to attain its object".

V

A few years' working of the Act of 1773 forced the attention of the Parliament to its grave defects. In 1781 two committees were appointed. One was to enquire into the administration of justice in India, and the other into the causes of the last Carnatic War and the state of government on the coast. The first committee presented its preliminary report in the same year, as a result of which the Amending Act of 1781 was passed.

The Act of 1781 tried to remove some of the defects of the 1773 Act.

In the first place, the Act of 1781 exempted the actions of the public servants of the Company done in official capacity from the jurisdiction of the Supreme Court. The Governor-General and Council, severally and jointly, were exempted from the jurisdiction of the Court "for anything counselled, ordered or done by them in their public capacity" except for the orders affecting British subjects. The revenue collectors were similarly exempted from the

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1. Although ¼th of the members of the Court of Directors were to retire every year, they were almost invariably re-elected.

2. Cambridge History of India, Vol. V, p. 119.

jurisdiction of the Court in matters relating to the collection of revenue. And, lastly, the judicial officers of the Country Courts were not to be held liable for acts done in judicial capacity.[1]

In the second place, the Act of 1781 tried to settle the questions relating to the jurisdiction of the Court over servants of the Company and the inhabitants of the country. First, the Court was to have jurisdiction over all inhabitants of Calcutta, but was to administer the personal law of the defendants. Second, the Company was to keep register containing the names, occupations etc. of its Indian employees. Third, the servants of the Company or of its British officers, or of any Britisher in India were to be subject to the jurisdiction of the Court only in actions for wrongs or trespass or civil cases by agreement of parties, but not in any matter of inheritance or succession to land or goods, or in any matter of business or contract. Fourth, "no person was to be subject to the jurisdiction of the Supreme Court by reason only of his being a landowner, or farmer of land or of land-rent or for receiving a payment or pension in lieu of any title to, or ancient possession of land or land-rent or for any compensation or share of profifs for collecting rents payable to the public out of such lands or districts as are actually farmed by himself, or those who are his undertenants in virtue of his farm, or for exercising within the said lands and farms any ordinary or local authority commonly annexed to the possession or farm thereof or by reason of his becoming security for the payment of rent."[2] Such persons, in other words, were not included among the servants of the Company.

In the third place, the Act of 1781 made clear as to what law was to be administered by the Supreme Court. The Act definitely laid down that all questions relating to "inheritance and succession, to lands, rents and goods, and all matters of contract and dealings between party and party, shall be determined, in the case of Mohammedans, by the laws and usages of Mohammedans, and in the case of Gentus, by the laws and customs of the Gentus; and where only one of the parties shall be a Mohammedan or a Gentu, by the laws and usage of the defendant." In other words, the Court was to administer the personal law of the defendant, whatsoever that may be, and not one uniform, foreign law. Second, it was laid down that the Court was to respect the religious usages and practices of the Indians, their social customs and traditions including the recognition of the authority of fathers and masters of families, the rules and laws of caste, even if they were illegal and criminal according to English Law. Further, the religious and social customs of the inhabitants of the country were to be respected in

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1. The defendants in the Patna Case were to be released on the security of the Governor-General-in-Council for damages to the plaintiff and were to be free to appeal to the King-in-Council against the judgment of the Supreme Court. For reference see page 15 *supra*.

2. Ilbert : Historical Survey, p. 56.

making rules and forms for the execution of legal decrees and processes. Such rules and forms were to be submitted to a Secretary of State for the approval of the Crown.

In the fourth place, the Act recognised and confirmed the appellate jurisdiction of the Governor-General-in-Council or any committee thereof in cases decided by the Country Courts. The Governor-General in Council was to be a court of appeal and record and its judgments were to be final except in civil suits involving a sum of £5,000 or more in which case appeals lay to the King-in-Council. The Governor-General in Council was to act as a revenue court as well, hearing and determining actions for offences committed in the collection of revenue, provided it did not inflict death, maiming or perpetual imprisonment as punishment.

Lastly, the Act of 1781 empowered the Governor-General-in-Council "to frame regulations for the Provincial Courts and Councils" from time to time. The regulations were to remain in force unless disallowed by the King-in-Council within two years. This was no new power. The Governor-General-in-Council had made regulations for the administration of justice in Bengal in 1772. The Act of 1773 had vested the Governor-General-in-Council with the power of making rules and regulations but had, at the same time, subjected it to the veto of the Supreme Court. The hostile relations prevailing between the Governor-General in Council and the Court made it difficult to frame new regulations after the passing of the Act of 1773, until in 1780 the Governor-General in Council decided to Act against the law and to do without registration and sanction of the Supreme Court. In 1780 the Governor-General-in-Council framed additional regulations for the administration of justice in Provincial Courts and issued a revised code in 1781. Neither the additional regulations nor the revised code appear to have been registered or approved by the Supreme Court. The Act of 1781 vindicated the action of the Governor-General-in-Council by freeing them from the necessity of registering and getting the sanction of the Supreme Court for their new regulations for the Provincial Courts and Councils.

VI

The Act of 1781 strengthened the position of the Governor-General-in-Council ; its provisions settled the disputed questions in their favour. But the reports of the Committees[1] appointed before the passing of the 1781 Act were very unfavourable to the system of executive and judicial administration of the territories of the Company in India to the persons responsible for its administration. The House of Commons passed resolutions recalling Hastings and Impey, but they were kept in office by the Court of Proprietors in

1. See page 20 *supra*. The first Committee did its work for several years after submitting the preliminary report mentioned on page 20.

defiance of the wishes of the Parliament and the Court of Directors[1]. Dundas, who was in opposition, introduced a measure empowering the King to recall the principal servants of the Company and vesting the Governor-General with very large powers. But the Bill had no chance of passing. It, however, served the purpose of goading the ministry into action.

The ministerial Bill was introduced by Fox and was read for the first time in the House of Commons on November 20th, 1783. Fox characterised the existing system of government as "government of anarchy and confusion". His remedy was to bring the Home Government of the Company and its officers abroad under the control of the British Government and to hand over the patronage of the Company to the Crown and his ministers. Fox proposed to abolish both the Court of Proprietors and the Court of Directors and to place the government of the Company under a Board of seven Commissioners with power to appoint and remove officers in India and to administer the territories, revenues and commerce of the Company. The Bill aroused a storm of opposition. It was severely criticised by Grenvile, Pitt, Wilberforce and others but nevertheless it succeeded in getting through the House of Commons by 208 votes to 102.[2] It was, however, defeated in the House of Lords. Pitt came to power and attempted to solve the Indian problem through the Act of 1784. Pitt's Act of 1784 established a system of Double Government in the "home" administration of India, which in spite of many defects and several changes in detail, lasted uptil the end of the Mutiny, when the Government of India was at last transferred to the Crown [3]

VII

Before dealing with the Act of 1784 it is convenient to describe here in brief the system of administration established by the East India Company as Diwan of Bengal, Bihar and Orissa. Prior to 17 5 the *Subedar* or the Nawab of Bengal exercised both the functions of the *Nizam* and the *Diwan*. As *Nizam*, the Nawab was in charge of the military power and criminal justice ; and, as

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1. Hastings was afterwards impeached by the House of Commons before the Lords. The historical trial which began on the 13th February, 1788, lasted till the 23rd April, 1795, resulting in the acquittal of the accused and the laying down of the principle that, to use the words of Burke—'the laws of morality are the same everywhere and that there is no action which would pass for an action of extortion, of speculation, of bribery and of oppression in England that is not an act of extortion, of speculation, bribery and oppression in Europe, Asia, Africa and all the world over." Impeachment of Warren Hastings, Keith : Speeches and Documents on Indian Policy, Vol. I., p. 144.

2. The first Bill was introduced by Pitt early in 1784 but was defeated by the opposition which was in a majority at the time, *i.e.*, before the dissolution of March 25, 1784.

3. "The Double Government established by Pitt's Act of 1784, with its cumbrous and dilatory prosedure and its elaborate system of checks and counterchecks, though modified in detail, remained substantially in force until 1858." Ilbert : Historical Survey, pp. 66-7.

Diwan, he looked after the revenue work and the administration of civil justice. In 1765 the *Diwani* was conferred on the East India Company by the Mughal Emperor and although the *Nizamat* remained nominally in charge of the Nawab, its actual control had passed into the hands of the Company—as the Nawab was a puppet in its hands. In February 1765 Mir Jafar died and the Company installed his minor, second son on the *Gaddi*. "The Company thus held the *Diwani* from the Emperor and the *Nizamat* from the *Subedar*."[1]

To begin with, the Company left the work of both the *Diwani* and the *Nizamat* in the hands of the old Indian agency. It only imposed its supervision and control on the top. The Resident, Francis Sykes Esquire, at Murshidabad exercised supervisory functions and controlled the whole administration through Mohammad Raza Khan who combined in his person the two offices of the Deputy *Nazim* and the *Diwan*. In 1769 the Company appointed in addition supervisors to check the work of Indian subordinates in the Districts. In 1770 while the District Supervisors continued to act, two Boards of Control of Revenue were created at Murshidabad and Patna. "These Boards like the individuals who preceded them, had cognizance of judicial as well as revenue causes, inasmuch as they replaced the original *Diwani* authority at those stations".[2] The District Supervisors and the Provincial Boards of Control "developed a dangerous independence of the Calcutta Government," to curb which "the Council at Calcutta on April 1, 1771, formed itself into a Committee of Revenue and ordered the provincial bodies to submit their correspondence and accounts to it".[3]

Warren Hastings took up the work of the *Diwani* in the spring of 1772. He found that the old system was defective and it led to injustice and tyranny. He dissolved the Calcutta Committee and the Murshidabad and Patna Boards and issued new settlement regulations to reorganise the revenue system. A supreme revenue authority was created at Calcutta where the whole council was to sit as a Board of Revenue and in each district there were to be sets of independent officials to look after the work of collection. He transformed the District Supervisor into the Collector and to check his work he had 'a native *Naib Diwan*, to act under him as head of the native revenue executive. All orders would issue from the Collector, signed with the Company's seal, and all funds pass through his hands to the Treasury, but the *Diwan* would record each measure and register all accounts, sending in an independent report to the *Khalsa* (Treasury) now seated at Calcutta."[4]

"At Calcutta the Council sat in its new capacity as a Board

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1. Sir James Stephen quoted by P. E. Roberts: History of British India, p. 159.
2. *Ibid.*
3. Monkton Jones: Warren Hastings in Bengal, 1772-1774, p. 228.
4. *Ibid.*, p. 289.

of Revenue twice a week, "for issuing the necessary orders to the collectors, inspecting, auditing and passing the accounts etc."

The plan of 1772 put too much strain on the Council at Calcutta and hence a system of Provincial Councils was invented in 1774. Districts were combined into divisions and for each of them was created "a Chief and Council". There were six such Divisions and six Provincial Councils. "A *Diwan* was appointed to each Division to keep accounts and records in the native tongue and under him a *Naib Diwan* to each District as before."[1] Inspectors were to be sent from time to time to towns in the District and to check the work of the district agency. Owing to dissensions in the Supreme Council, the Provincial Councils were not properly controlled. In 1776 Hastings remodelled the Provincial Councils but it was not till 1781 that he was able to achieve his final reform of concentrating all authority at Calcutta.

"In 1781 Hastings did at last achieve his revenue work and make the final long-sought correction. The Provincial Councils and Collectors were withdrawn and the administration of the revenue put into the hands of a committee of four, Messrs. Anderson, Shore, Charters and Crofts. He writes: 'They have no fixed salaries and are sworn to receive no perquisites. In lieu of both they are to draw a commission of 1% on the monthly amount of the net collections and double on the sums paid immediately in Calcutta .....' He hoped thus to make great savings to the Company: 'the increase this year will be about 27 lacs and the saving of expenses 12, in all 39 lacs.' "[2]

VIII

Warren Hastings not only utilised the old Indian Agency for revenue collection and administration, but he also made full use of the old system of judicial administration. He believed in both the indigenous agency and the Indian system of law as best suited to local conditions. As remarked by Monkton Jones: "The first essential in his eyes was to retain the native magistracy and codes of law, recorded and oral, to which the people were accustomed."[3] Of course he did not retain the system in its old form in its entirety but exercised his powers of discrimination and adoption. He drew up a scheme for this purpose which is known as the Plan of Justice of 1772.

Warren Hastings made the district the unit of administration for judicial as well as other purposes. In each district there was to be both a criminal and a civil court. "To this purpose he utilised the existing courts of the *Daroga Adalat Diwani*, better known as the *Mofussil* or Provincial *Diwani*, for civil causes, and

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1. *Ibid.*, p. 291.
2. *Ibid.*, p. 292.
3. *Ibid.*, p. 311.

the *Faujdari Adalat* for crimes and misdemeanours."[1] The jurisdiction of each court was carefully defined.[2] "Over the local civil courts, the European Collectors of each district, and on their suppression, the Provincial Councils, were empowered to preside, in company with a provincial native *Diwan* and officers appointed by the President and the Council. Over the criminal courts the native officers alone presided, with two *Maulvis* or Mohammedan doctors to expound the law : the English officials possessed, however, a right of general supervision."[3] Besides the district civil and criminal courts, other local courts were swept away except that "the head farmer of each *pargana* was to settle on the spot small disputes up to the value of ten rupees, arising between the ryots .... They were given no power to punish or fine and were themselves made liable to complaints brought against them in the newly instituted District Courts, a locked box to receive such complaints being provided outside each *Cutcheri*."[4]

Over the District Courts Warren Hastings created the Court of Appeal—the *Sadar* Courts at Calcutta. The *Sadar Diwani Adalat* consisted of the Governor and two members of the Council assisted by the *Diwan* of the Exchequer, the head *Kanungo*, etc. The *Sadar Nizamat* (*Faujdari*) *Adalat* was presided over by the *Nazim's* deputy, a Mohammedan judge, who was assisted by *Maulvis* or Mohammedan doctors of law. A power of general supervision over the *Nizamat Adalat* was reserved to the President and Council.

The Plan of Justice of 1772 did not only reorganise the system of civil and criminal courts both at the capital and in the districts but it also attempted to improve the practice of the law by laying down certain general principles. The chief of these were :—

"(*a*) The recording of all procedure in the courts of every degree.

(*b*) A time limit set to all litigations to prevent the raking up of old grievances .....

(*c*) The abolition of legal '*Chouth*' and heavy fines.

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1. *Ibid.*, p. 312.

2 *Ibid.*, pp. 312-313 :—(i) The *Mofussil Diwani Adalat* dealt with civil causes which were grouped under three heads :—(*a*) property, real or personal ; (*b*) Inheritance, marriage or caste disputes ; and (*c*) debt, contract, rents, etc. But from this distribution was excluded the right of succession to *Zamindaris* and *Talukdaris*, which was to be left to the decision of the President and Council.

(ii) The *Faujdari Adalat* dealt with criminal causes which were also grouped under three heads :—(*a*) Causes of murder, robbery, theft, etc. ; (*b*) Felonies, forgery, perjury ; and (*c*) Assaults, frays, quarrels, adultery ; and every other breach of the peace or trespass. Sentences of confiscation and of capital punishment required confirmation by the higher courts at Calcutta before they could be executed.

3. Weitzmann : Warren Hastings and Philip Francis, p. 60.

4. Monkton Jones : Warren Hastings in Bengal, 1772—74, p. 315.

(*d*) The inhibition of the creditor's right of jurisdiction in his own cause, as in the case of *Zamindars*, *Kanungoes*, etc.

(*e*) The encouragement of arbitration to settle cases of disputed property."[1]

Warren Hastings was satisfied with the working of this system except that he disliked concentrating so much authority in the hands of the Collectors. This defect was removed by the institution of Provincial Councils in 1774. However, as pointed out above,[2] the working of the system of Provincial and District Courts was interfered with by the Supreme Court which was set up under the authority of the Act of 1773. All the same the system continued to function. It was re-embodied in a new Code of Regulations issued in 1780 and reaffirmed by the Revised Code of 1793.

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1. *Ibid*,. p. 314.
2. See p. 17, *supra*.

3

THE PERIOD OF DOUBLE GOVERNMENT

I

By a curious coincidence the Company both gained and lost territorial sovereignty in India through the establishment of a system of dual or double government. It was Clive, who by obtaining—by the *Firman* of August 17, 1765—grant of the *Diwani* of Bengal, Bihar and Orissa and thereby establishing a system[1] of dual government therein had gained territorial power for the Company; and it was Pitt, who by the Act of 1784, created the dual authority of the Board of Control and the Court of Directors and deprived the Company of the supreme and the ultimate control in the management of Indian affairs.

The Act of 1784 empowered[2] His Majesty to appoint six Commissioners from among the members of the Privy Council, two of whom were to be the Chancellor of the Exchequer and one of the Secretaries of the State, to constitute a Board of Control[3] over the Board of Directors, superseding for all practical purposes, the Court of Proprietors.[4] The Board was to act as a sort of annexe to the ministry, changing with every change in administration. "The said Secretary of State, and in his absence, the said Chancellor of the Exchequer, and in the absence of both of them, the senior[5] of the said other Commissioners..... shall preside at, and be President of the said Board."[6] He was to have a casting vote "in case the

1. A system "under which the Company, whilst assuming complete control over the revenues of the country, and full powers of maintaining its military forces, left in other hands the responsibility for maintaining law and order through the agency of the courts of law." Ilbert: Historical Survey, p. 38.

2. Clause I, Act of 1784, Keith: Speeches and Documents, Vol. I, p. 96.

3. The formal title was "Commissioners for the Affairs of India".

4. The Court of Proprietors lost its chief governing faculty, for it was deprived of revoking or modifying any proceedings of the Court of Directors which had received the approval of the Board of Control". Ilbert: Historical Survey, p. 46, and see Chuni Lal Anand: History of Government in India, Part II, p. 27.

5. In practice the senior member became its president and an informal Secretary of State for India.

6. Clause III of the Act. Keith: Speeches and Documents, Vol. I, p. 96.

members present.....(were) equally divided in opinion."[1] The quorum was fixed by the Act at three. The Commissioners were unpaid and had no power of patronage[2] but were authorised and empowered.....to superintend, direct and control all acts, operations and concerns, which in any-wise relate to the civil or military government or revenues of the British territorial possessions in the East Indies."[3] The Board of control was to "have access to all papers and muniments"[4] of the Company and to "be furnished with such extracts and copies thereof, as they shall.....require."[4] The Court of Directors was required "to deliver to the said Board, copies of all minutes, orders, resolutions and other proceedings ..... of the said Company.....and copies of Despatches"[4] sent or received by the Directors or any Committee of the Court of Directors. The Commissioners had the power of modifying the despatches and requiring the Directors to send them so modified to their officers in India. The Board of Control had thus almost the same powers over the Court of Directors and the Company's servants in India as the Secretary of State was given by the Act of 1858 and subsequent statutes over the Governor-General and the Government of India. As a matter of fact Clause VI of the 1784 Act has been repeated in almost the same words in later statutes.[5]

The Board of Control was to issue orders and directions ordinarily to and through the Board of Directors but in certain cases the Commissioners could "send orders and instructions to the Secret Committee (consisting of not more than three members chosen by the Directors from among themselves)[6] of the said Court of Directors.....who shall thereupon, without disclosing the same, transmit their orders and despatches.....to the respective governments and presidencies in India."[7]

The supreme control thus passed into the hands of the New Board though the Court of Directors continued to exercise powers of patronage and considerable influence over the Government of India almost up to the transference of the Government to the Crown. Write the authors of the Report on Indian Constitutional Reforms, 1918 : "We must not conclude, however, that the supremacy of the President of the Board of Control left the Directors with no real control. Their position was still a strong one ; the right of initiative still rested ordinarily with them, they were still the main

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1. Clause IV of the Act. *Ibid.*, p. 97.

2. Clause XVII of the Act. "That nothing in this Act contained shall extend into this Board the powers of nominating or appointing any of the servants of the said United Company." *Ibid.*, p. 102.

3. Clause VI of the Act. *Ibid.*, p. 97.

4. Clause XI of the Act. *Ibid.*, p. 98.

5. See for instance, Clause II. Subsection 2 of the Consolidated Government of India Act. Bose : Working Constitution of India, p. 104.

6. Clause XVI of the Act. Keith : Speeches and Documents, Vol. I, p. 101.

7. Clause XV of the Act. *Ibid.*, p. 100.

repository of knowledge, and though the legal responsibility lay with the Government they exercised to the last a substantial influence upon details of administration."[1]

The Act of 1734 carried the unification of India one step further, it extended and defined the powers of the Governor-General-in-Council over the Governors-in-Council of Madras and Bombay. Clause XXXI laid down that the Governor-General-in-Council "shall have the power and authority to superintend, control and direct the several presidencies and governments .....in all such points as relate to any transactions with the country powers or to war or peace, or to the application of the revenues or forces..... in time of war, or any such points as shall .. .. be specially referred by the Court of Directors."[2] A similar control over the Governor-General-in-Council was reserved to the Court of Directors.

The Act of 1784 affected the constitution of the Governor-General's and the Governor's Councils.[3] Each Council was to consist of three members, one of whom was to be the Commander-in Chief. The appointments were to be made still by the Court of Directors, but the Crown was given the right "to remove or to recall[4] the Company's servants". For the first time the Company's territories were called "the territorial possessions of this Kingdom", "the British possessions in India."[5]

The Company was asked to put her house in order and to carry out "every practical retrenchment and reduction" and to stop all schemes of conquest and extension of dominion. It was laid down that "to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour, and policy of this nation."[6]

The Act of 1784, lastly, tried to make a better provision for the trial in England of offences committed by the English in India. A special court, consisting of three judges, four peers and six members of the House of Commons, was created to deal with such cases.

The chief effect of the passing of the Act of 1784 was to transfer the real power in the Government of the country to the President of the Board of Control.[7] This was due to several causes :

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1. Page 18, Paragraph 31.
2. Clause XXX of the Act. Keith : Speeches and Documents on Indian Policy, p. 109.
3. Clauses XVIII and XIX of the Act. *Ibid.*, p. 102.
4. Clause XXII. *Ibid.*, p. 104.
5. Clause I, *Ibid.*, p. 96.
6. Clause XXXIV, *Ibid.*, page 111.
7. Although the Act of 1784 had vested the control in the Board as a whole the actual power came to be concentrated in the hands of the President. Writes Professor Dodwell : "This change was not effected without some ill-feeling. Henry Dundas had from the first been the moving spirit, to the

(*Continued on page 31*)

the first President, Sir Henry Dundas, was a friend of Pitt and was able to assert the powers of the Board from the very beginning. The Directors who were poorly paid and depended for their chief gains on their power of patronage, were afraid of displeasing he Board of Control, lest they should lose even that power. The President of the Board was not required to lay any annual account before the Parliament and was practically irresponsible.[1] All these factors contributed to make the Board of Control and its president very powerful[2] though Pitt had taken care to keep the position and the prestige of the Court of Directors unchanged.

The Act of 1784 had left the Government in India "vested in the majority of a constantly-changing Council".[3] The defects of this system became very patent under the feeble rule of Warren Hastings' successor, Mr. Macpherson, who possessed no other qualifications for the office except seniority. Hence, when Lord Cornwallis was approached for accepting the office of the Governor-General, he stipulated a change in the system and an increase in his powers. Consequently, an Act was passed in 1786, which empowered the Governor-General—and Governors as well—to overrule the Council in extraordinary cases; and enabled Lord Cornwallis to combine in his person the two offices of the Governor-General and the Commander-in-Chief. The Act also provided that no person, who has not served in India for twelve years or more, except in the case of the Commander in Chief, should be appointed as a member of the Governor-General or a Governor's Council.

Pitt had purposely refrained from defining the respective powers of the Board of Control and Directors in the Act of 1784 and had used ambiguous language to silence opposition. But once the Bill was put on the Statute Book and the need for keeping the Directors in good humour had passed, the ministry began to disclose its real object. Pitt, no less than Fox, was anxious to deprive the Company of all political power and to vest the real control of Indian affairs in the Board of Commissioners. It was for this purpose that the powers of the Board of Control were made so general

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(*Continued from page 30*,

great indignation of some of his colleagues, especially Lord Sydney, who protested against the way in which Dundas pushed the interest of Scotsmen in India. In 1786, it was intended to make the change formal; 'in which case", wrote Dundas, "I suppose your humble servant not only in reality but declaredly will be understood as the Cabinet Minister for India." But although this idea was ultimately carried out by the withdrawal of the *ex-officio* members from attending meetings of the Board, to the last the President required the formal assent, first of two and then of one of his colleagues to legalise his proceedings.

1. His position in the ministry depended upon his personality. So long as Dundas was the president he was included in the Cabinet, but several others, for instance, Minto, were not so included.

2. See p. 40. Thakore: Indian Administration to the Dawn of Responsible Government.

3. Chesney: Indian Polity, p. 19.

and wide by the Act of 1784.[1] From the very beginning the Board of Control assumed a stiff attitude and asserted its superiority and authority over the Directors. Several differences arose within the next three years, and even when the Board of Control gave way, it was made clear that the Directors "were not to retain the slightest authority, in any other capacity than that of the blind and passive instruments of the superior power."[2] In 1784, a serious and important difference arose between the two Boards, which was ended by the passing of the so-called "Declaratory" Act of 1788.

The Directors had questioned the authority of the Board of Control to send British (Royal) troops to India at the expense of the Company. But the Board of Control held that it had the power under the Act of 1784, and, consequently it sent four Royal regiments to India and charged their expenses to Indian revenues. The Directors protested against the action taken by the Commissioners and questioned both the necessity and the desirability of sending out Royal troops as well as the powers of the Board of Control to charge the expenses to Indian revenues. They quoted the provisions of the Act of 1781, which were still unrepealed, according to which the Company could not be forced to pay the expenses of any troops except those requisitioned by it.

Pitt introduced a 'Declaratory' Bill to end such controversies once for all by placing the supreme authority in the hands of the Board of Control, without which, so Sir Henry Dundas contended, "the Board of Control would be a nugatory institution."[3] Various objections were raised. It was pointed out that the unlimited power of spending money would mean "the confiscation of the whole of the Company's property" as "the commercial funds of the Company were blended with the political".[4] To the sending out of the Royal troops to India two objections were urged. First, that the Company had all the troops it needed and that it was cheaper for the Company to raise troops in India than to send them from England ; and, second, that it was unconstitutional for the Crown to maintain any troops for which money was not voted by the Parliament. Moreover, the sending of Royal troops would complicate the army organisation in India by mixing up the Company troops with the Royal regiments.

Pitt and Dundas tried to deal with these objections. The constitutional question that was raised was shelved by the Prime

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1. Henry Dundas described Lord Cornwallis "as the fittest person in the world for the Government of India : Here there was no broken fortune to be mended ! Here there was no avarice to be gratified ! Here there was no beggarly mushroom kindred to be provided for ! No crew of hungry followers gaping to be gorged". Quoted by Thakore, from Mill & Wilson : History of India, Vol. V, Chapter IX, in Indian Administration to the Dawn of Responsible Government, p. 44.

2. Ilbert : Historical Survey, pp. 67-8.

3. Mill : History of India, Vol. V, p. 78.

4. *Ibid.*, p. 75.

Minister by pointing out the unsatisfactory nature of the existing position with regard to the whole question of the Imperial army and navy. "The introduction of the present question would be to excite attention and to apply reform to that important but defective part of the constitutional law."[1] Pitt also recognised the difficulty of having two kinds of military establishments in India and told the House that all the army in India ought to belong to the king, and that plans were in preparation to affect this reform. The truth was, that both Pitt and Dundas were bent upon transferring all power in India to the Crown, *i.e.*, to the ministry, and, in spite of the expressed wish of the Parliament and the Directors of the Company, their policy was to favour the extension of political power in India.

This bid for unlimited power by the ministry led to considerable amount of opposition, suspicion and alarm, and Pitt, in order to allay them, added few more clauses for the purpose of putting certain limitations on the powers of the Board of Control. The number of troops which the Board could send was limited. The Board had no power of increasing the salary of the officers, of ordering any gratuity for services performed, except with the concurrence of the Directors and the Parliament. And the Directors were to lay before Parliament the annual accounts of the Company's receipts and disbursements.

Thus ended the attempt to "declare" the meaning of the Act of 1784. It is not the business of Parliament to "declare" the meaning of statutes—that is a work which is assigned to the judiciary. But "a declaratory bill, with enacting clauses" was "an absurdity which resembled a contradiction in terms.....It declared that a law without limiting clauses, and a law with them, was one and the same thing".[2]

II

Lord Cornwallis came out to India in the double capacity of the Governor-General and the Commander-in-Chief, armed with the authority of overruling his Council under certain conditions, but with perfectly pacific intentions. He was, however, involved in a big war with Tippu, which was conducted by him in person with great ability and which resulted in the addition of the present districts of Malabar and Salem and part of the district of Madura to the Madras Presidency.

The Act of 1786 had given power to the Governor-General to overrule his Council, but not to act without its advice. So an Act was passed in 1791, "confirming the special powers the Council had provisionally conferred on him to act without them, until three months after the termination of the war".[3] This power was made general by later statutes.

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1. *Ibid.*, p. 79.
2. *Ibid.*, p. 80.
3. Chesney: Indian Polity, p. 22.

The rule of Lord Cornwallis was a memorable one in the annals of Indian administration. Lord Cornwallis had come to India armed with exceptional powers ; but with a sinister reputation of "the man who had lost America"[1]. He was in India for seven years and during this period he not only won a great military victory[2] but carried out far reaching reforms in the administrative, financial and judicial systems of British India.

Perhaps the greatest of his reforms was that of the public services—both civil and military—in India. The Indian public service was, in the words of Chesney, "saturated with venality and corruption and overlaid with a brutal coarseness and profigacy of manners".[3] Mr. Vincent Smith mentions the example of the Resident of Benares whose estimated gains amounted to £40,000 a year[4], although the actual salary was very small. Indeed the chief reason of the prevailing corruption was "the old-fashioned commercial view of the Directors, who liked to see small salaries shown in the accounts, while they were indifferent to the largeness of the unofficial perquisites appropriated by their servants".[5] Lord Cornwallis changed all this. He gave them liberal salaries, but forbade them recourse to other ways of raising an income. And, by his own example,[6] he set up a new and a higher standard of public service and purity.

Lord Cornwallis not only reformed the character of the public service but also reorganised the administrative system. He organised the districts and made the district the unit of Indian administration. Each district was to have a Collector for revenue administration, who was deprived of his judicial and magisterial functions ; a civil court, presided over by a European Judge, who had also the powers of a magistrate and the control of the police ; and a police circle in charge of an Indian *Daroga* (Chief Constable) under the control of the District Judge. Criminal justice was to be administered by the Provincial Courts in circuit.

It is strange that the reasoning that led Lord Cornwallis to separate the revenue and the judicial functions should not have affected his decision to combine the judicial and the executive functions ; but such is the fact. Lord Cornwallis deprived the Collector of judicial powers but gave the District Judge magisterial and police functions.

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1. Smith : Oxford History of India—quotation from Marshman. Lord Cornwallis was in command of the force which was compelled to surrender in York Town on the American coast in October 1781, p. 558.

2. The Mysore War ended by the Treaty of Seringapattam, 1792.

3. Chesney : Indian Polity, p. 23.

4. Smith : Oxford History of India, p. 557.

5. *Ibid.*

6. Lord Cornwallis was an honest, hardworking and public spirited ruler and he refused to take his share of the Seringapatam money. *Ibid.*, p. 574.

Three types of courts were created by Lord Cornwallis for the administration of civil justice. There were, first of all, the local courts in large towns and the district. In the large towns there were *Munsif's* and *Amin's* court's to try cases of the value of Rs. 50 and under, and Registrar's courts for cases not exceeding Rs. 200 in value In each district there was the district court presided over by a European Judge of a higher rank than the Collector, with a *Kazi* and a *Pandit* well versed in the Mohammedan and Hindu Law respectively. The district courts not only had original jurisdiction but heard appeals from the *Munsifs'* and the Registrar's Courts. Secondly, there were created four Courts of Appeal, called the Provincial Courts, one in the vicinity of Calcutta and the other three at Patna, Dacca and Murshidabad. Three judges with a Registrar and one or more assistants and three expounders of Indian law, a *Kazi*, a *Mufti*, and a *Pandit*, formed the establishment of each court. They heard appeals from the different courts and their decision was final in all cases of the value of Rs. 1,000 and under. In cases over the value of Rs. 1,000 appeals lay to the Supreme Court at Calcutta, called the *Sadar Diwani Adalat*, which was composed of the Governor-General, the members of his Council, with a head *Kazi*, two *Muftis*, two *Pandits* and a Registrar and a few other assistants. Appeals from the *Sadar Diwani Adalat* could be taken to the King-in-Council (the Privy Council) in cases involving sums exceeding Rs. 50,000.

For the administration of criminal justice the four provincial courts of appeal were vested with criminal jurisdiction and they were to perform the business by circuit. The courts were to be held four times in a year in the district of Calcutta, twice in a year in the other districts and at the headquarters of the provincial courts once every month. For circuit work each of the provincial courts was split up into two : one, consisting of the first judge, accompanied by the registrar and the *Mufti* ; and the other, consisting of the remaining two judges attended by the second assistant and the *Kazi*. Above these circuit courts was constituted the *Sadar Nizamat Adalat*, consisting of the Governor-General, members of his Council, assisted by the head *Kazi* and two *Muftis*. Besides the provincial courts and the *Sadar Nizamat Adalat*, there were the Justices of the Peace[1] in each district who could try cases involving sentences up to 15 days' imprisonment or fine up to Rs. 200.

Lastly, Lord Cornwallis tried to improve the police system in the country. The police powers had been vested in the *Kotwals* in the cities and in the *Zamindars* in the rest of the districts. Both had their own armed followers. They were deprived of their powers. And instead a new system was created. Each district was divided into circles of about 20 miles each, and for each circle the district judge was to appoint a *Darogah* or head constable with

1. The District Judges, the Registrars and the *Ameens* were all Justices of the Peace as well.

a train of armed men. The big cities were divided into wards, each in charge of a *Darogah* and his armed men. The *Darogah* and his establishment was placed under the control of the district judge, who became the chief magistrate of the district, with powers of supervision and control over the police.

In the administrative reforms of Lord Cornwallis there are three points that need special mention. The first is that although members of the public services were allowed liberal salaries and were prohibited other fees, commissions, presents, etc., the Indian assistants were given very small salaries and sometimes even no salaries at all and were remunerated by fees or grants. The registrars, *mufits*, and *ameens* were allowed no salaries but a fee of one anna in a rupee and a police *Darogah* only a salary of Rs. 25 a month plus Rs. 10 for every dacoit or brigand convicted, and a commission on stolen property recovered. The result was that the *Darogahs* "*were a terror* to the well-disposed rather than to evil-doers".[1] Secondly, although Lord Cornwallis ordered that all regulations issued so far by the Governor-General-in-Council "should be numbered, arranged, printed and circulated for the guidance of all concerned"[2], no attempt was made to codify the Indian laws. The opinions of the *Pandits* and the *Kazis* were liable to fluctuations and differences. "Everything was vague, everything uncertain, and by consequence arbitrary."[3] And, thirdly, Lord Cornwallis followed "a policy of the systematic exclusion.....of the natives of the country from all share in the administration."[4] Marshman has characterised it as "the great and radical error of Lord Cornwallis", and the unwisdom and injustice of this policy are now recognised by all.[5]

There is another very important reform of Lord Cornwallis, the most enduring of all his reforms, *i.e.*, the reform of the revenue which used to be praised a great deal not very long ago,[6] but which is now regarded as a blunder by the majority of writers. In 1793

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1. Smith : The Oxford History of India, p. 570.

2. Sapre : The Growth of the Indian Constitution and Administration, p. 135.

3. Mill : History of British India, Book VI, p. 432.

4. Chesney : Indian Polity, p. 25.

5. Prof. Dodwell points out that there were several insurmountable legal difficulties in the way of the employment of Indians in the higher ranks. The Act of 1791 had laid down that "no office, place or employment, the salary, perquisites, and emoluments whereof shall exceed £500 per annum shall be conferred upon or granted to any of the said servants who shall not have been actually resident in India as a covenanted servant of the said Company for the space of three years at the least....." Writes Prof. Dodwell : "Even had he (Lord Cornwallis) wished to do so, it would not have been legal for him to nominate an Indian to any post carrying more than £500 a year, for no Indian was a Company's servant within the meaning of the Acts". Cambridge History of India, Vol. V, p. 319.

6. For an appreciation of the Permanent Settlement of 1793 read Dutt's History of Early British Rule in India.

Lord Cornwallis made the settlement of the land revenue in Bengal, Bihar and Orissa and in 1795 in the Benares Division which was proclaimed as permanent. The making of the settlement permanent was opposed by Sir John Shore, who was the chief expert in the matter at the time, but was rushed through by Lord Cornwallis. Recently it has been very adversely criticised.

III

Towards the close of Lord Cornwallis' regime the question of the renewal of the Company's character came up for discussion before the Parliament. The character of the Company had been confirmed in 1773 for twenty years, and as this period was coming to an end the merchants and the manufacturers of England set on foot an agitation to effect the freedom of the eastern trade. But the Board of Control and the Board of Directors had prepared their plan very cleverly. They had appointed a Committee of Directors to prepare their report on the subject of eastern trade and plantations, which was to go before the House of Commons in due course. In the meantime, on February 25th, 1793, Sir Henry Dundas, the President of the Board of Control, made a statement before the House on the extremely satisfactory state of affairs in India at the time, and by offering illusory gains to the people, skilfully prepared the way for the renewal of the Charter. Pitt was then at the height of his power and the nation's interest was centred in the fight with France, which had begun by the time the question of renewing the Charter came before the House. Under these circumstances it was not difficult for Dundas and Pitt to push through the renewal of the Charter. Consequently, the Act of 1793, was passed, renewing Company's monopoly and power for another twenty years with only a few modifications.

IV

The Act of 1793 was a very long Act. It repealed several of the previous statutes and consolidated the law, but it did not make many alterations and amendments.

In the first place, Company's commercial monopoly in the East was renewed for 20 years. 3,000 tons were allowed for private trade to silence the opposition of the English merchants and manufacturers, but the right was so hedged about with restrictions[1] that "the merchants decided not to occupy the unprofitable channel"[2] thus opened to them.

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1. The private traffic permitted was to be "subject to the restriction of not importing military stores, or importing piece goods, and subject also to the restriction of lodging imports in the Company's ware-houses, and of disposing of them at the Company's sales." Mill : History of British India, Book VI, p. 8.

2. *Ibid.*, p. 14.

In the second place, the Act made a provision for the payment of the members and the staff of the Board of Control out of Indian revenues, and started the unfortunate practice, which continued till the coming into force of the Government of India Act, 1919, with undesirable effects.[1] The Act of 1793 further made it unnecessary for the two junior members of the Board of Control to be Privy Councillors.

Thirdly, the Act, in a number of elaborate sections, regulated the Company's finances. An annual surplus of £1,239,241 was assumed, out of which £500,000 were to go to the liquidation of the Company's debts, £500,000 were to be absorbed in increasing the dividend from 8 to 10 per cent. The Company was to raise a loan of two million pounds by adding new stock worth one million pounds, subscribed at 200 per cent £100,000 was provided for a dividend of the new capital. The assumed surplus never materilised and Britain did not receive its share of £500,000 a year, though the shareholders benefitted by the raising of the dividend from 8 to 10 per cent.

Fourthly, the Act of 1793 made a few slight modifications in the system of the government in India. The procedure in the Council of each presidency was regulated and the Governor-General and the Governors were given the power of overruling their Councils. The power of control exercised by the Governor-General over the governments of the other two presidencies was emphasised and it was provided that when on a visit to another presidency, the Governor-General was to supersede the Governor. No leave of absence out of India was to be allowed to the Governor-General, Governors, the Commander-in-Chief and a few other high officials, whilst they held the office. This was only altered in 1925, by a special Act of Parliament. The Governor-General was empowered to appoint a vice-president of the Council from among the members, to act for him during his visit to another presidency. The Commander-in-Chief[2] ceased to be a member of the Governor-General's Council, unless he was specially appointed a member by the Directors.

Fifthly, the admiralty jurisdiction of the Calcutta Supreme Court was extended to the high seas and power was given under the Act to appoint members of the civil service, Justices of the peace, to appoint scavengers for the presidency towns, to levy a sanitary rate and to forbid the sale of liquor without a license.

The rest of the Act was merely of a consolidating nature.

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1. The chief effect of paying the members and the staff of the Board of Control from Indian revenues was to diminish greatly the opportunities of Parliamentary control— as it is only at the time of discussing the estimates that the work of each department comes in for close scrutiny in the Parliament.

2. It was only in the case of Lord Cornwallis that the office of the Commander-in-Chief was combined with that of the Governor-General. See p. 33 *supra*.

V

The Act of 1793 reiterated that "to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, honour, and policy of the nation". The Court of Directors was also, for reason of its own,[1] opposed to the policy of conquest and extension. But the force of circumstances and the ambition of the men on the spot led to the adoption of just the opposite policy in actual practice. Lord Wellesley, during the seven years of his Governor-Generalship, enlarged the territories of the Company considerably and brought almost the whole of India—with the exception of the Punjab, Sind and Nepal—under the paramount influence of the British.

The wars of Lord Wellesley had added enormously to the debt of the Company. Within five years it was more than double, until in 1805 it stood at £21 millions, with an annual interest of £2,791,100.[2] The Company's trade also experienced a decline. In 1808 the Court of Directors experienced a great embarrasment by a run upon their treasury and in order to meet it appealed to the Parliament. In its petition the Company asked for the return of £1,200,000 due to it from the Government and a loan of the like sum to enable it to meet the run. A Committee was appointed on the 11th March 1808, to inquire into the state of affairs in India as a preliminary to the grant of the money.[3] The report was received on the 13th June and a sum not exceeding £1,500,000 was to be handed over to the Company on its old account. The Company was allowed a loan of a million and a half in 1811 and in 1812 it was allowed to raise a loan of £2 millions upon bond. The Parliament allowed a further loan to the Company of $2\frac{1}{2}$ million pounds in June 1812.[4]

The Committee of 1808 went on with its work of examining the affairs of the Company for five years and produced five reports, of which the fifth report is the most important. It was published in July 1812, and according to Ilbert "is still a standard authority on Indian land tenures, and the best authority on the judicial and the police arrangements of the time.[5] So by the time the question of renewing the Charter came up before the Parliament a thorough investigation had been made in Indian affairs.

At the time of the renewal of the Charter in 1813 the main question that came up for discussion was whether the commercial privileges of the Company should be continued or not—there was no question then of depriving the Company of its political powers.

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1. The Directors disapproved of conquest and territorial expansion owing to the heavy expenditure they entailed and the decrease in the profits of the Company.
2. Mill & Wilson : History of British India, Vol. VII., pp. 485-86.
3. *Ibid*, p. 468.
4. *Ibid*., pp. 454-55.
5. Ilbert : Historical Survey, p. 73.

Till then the Company had enjoyed the monopoly of both the China and the Indian trade. As far as the trade with China was concerned the Ministry proposed to keep it still in the hands of the Company. There were important reasons for this proposal. The Chinese trade was carried on under very peculiar circumstances ; "the Chinese Government entertained a violent jealousy of foreign intercourse, and confined the trade not only to a single port but to a single society.....(called the Hong) interdicting the rest of its subjects from trafficking with strangers. There was no field, therefore, for competition."[1] On the other hand, "there was great reason to apprehend that from the ignorance or incaution of British traders and sailors, subject to no national control, and setting the Chinese authorities at defiance, frequent interruption, if not a total stop to the trade, would occur ; to the serious discontent of the people of England, to whom tea had become a necessity of life, and to irreparable injury of the revenue, which realised nearly four millions a year of duty upon this article of trade."[2] It was for these weighty reasons that the Government had determined from the first to uphold this monopoly and to exclude private traders from the China trade.

However, the position was quite a different one so far as the trade with India was concerned ; and the attacks of the opponents of the Company were chiefly directed against the monopoly of the Indian trade. A strong agitation was being carried on by merchants, shipowners and manufacturers from all over the United Kingdom and petitions were pouring in from all parts—from London, Bristol, Liverpool, Glasgow, Birmingham, Manchester, Sheffield, Nottingham, Blackburn, Paiseley, Dundee, Perth, Belfast and other towns requesting the Parliament not to grant the renewal of the monopoly of the Indian trade to the Company but to throw it open to all British subjects. The petitioners asserted the right of each person in the United Kingdom to unrestricted trade and commerce. They quoted Adam Smith and his anti-monopoly arguments and his reasons in favour of free trade. And among the advantages that would accrue to Britain by the abolition of the monopoly they mentioned especially four :—(1) the extension of British commerce and industry ; (2) the prevention of the diversion of Indian trade to other countries of Europe or America ; (3) the reduction in the cost of trade—especially in transportation and warehousing charges ; and (4) the cheapening of the Indian raw imports into Britain.[3] The Company, on the other hand, called these advantages illusory. Indian trade was not paying at all and the habits and standards of Indians were such that no expansion was possible. The Directors pointed out a large number of practical difficulties and asserted dogmatically that freedom of trade

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1. Mill & Wilson : History of British India, Vol. VII, p. 512.
2. From Sir G. Stamton's "Considerations on the China Trade" quoted by Mill & Wilson : History of British India, Vol. VII, pp. 511-12.
3. Shah : History of Indian Tariffs, p. 103.

with India would bring ruin on the Company and end the British Empire in the East. And they got their distinguished servants like Warren Hastings, Teignmouth, Malcolm and Munro to support their views. But, as pointed out by Wilson in his continuation of Mill's History of British India, the decision to throw open the Indian trade was not made as a result of weighing the above arguments carefully ; it was the hope of relieving the severe distress caused to British commerce and industry by Napoleon's decrees that was mainly responsible for it.

In the discussion that took place in the British Parliament three important questions were raised :—(1) The desirability or otherwise of British colonisation in India, (2) the results of the abolition of the Company's trade monopoly on the people and industries of India, and (3) on the need of missionary propaganda and its effects on the people in India.

The Company's servants painted the results of European settlement in India in lurid colours. According to Warren Hastings "they would insult, plunder and oppress the natives and no laws enacted from home could prevent them from committing acts of licentiousness of every kind with impunity".[1] As remarked by Ilbert, the apprehensions expressed by the supporters of the Company were not unfounded but "they were expressed by the advocates of the Company in language of unjustifiable intemperance and exaggeration "[2] A compromise was arrived at, by which Europeans were allowed to proceed to India under a strict license system. They were, however, prohibited from holding land in India and were required to preserve "the authority of the local governments respecting the intercourse of Europeans with the interior of the country."

In the second place, a great deal was said in the British Parliament as to the beneficial results that the opening of the trade and the cheapening of commerce would bring to the people of India—and this when some of the chief exports of India were either prohibited or heavily taxed in the English market. The truth is, as stated by Dr. Shah in his History of Indian Tariff's (page 105), "the cry for free trade with India did not mean, and was not intended to mean, free trade between England and India. It was a selfish and an interested cry directed against the monopoly of the East India Company."

Lastly, a strong agitation was carried on both inside and outside the Parliament by leaders of the Evangelists for giving full facilities to the missionaries to go to India and to spread the gospel of Christ among the heathens of India. A terrible picture was drawn of the people of India by Witherforce and others and

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1. Ilbert ; Historical Introduction to the Government of India, p. 75.
2. See the 13th resolution—Appendix X, Mill and Wilson ; History of British India, Vol. VII, p. 608.

although Mr. Marsh and Lord Teignmouth pleaded eloquently for the continuance of the old policy of non-interference with the religious beliefs of the Indian people the Government was forced to give way and consequently it was laid down that it was "the duty of this country to promote the interest and happiness" of the Indian people and to promote among them useful knowledge and their religious and moral development. And those who wished to go to India for the furtherance of these objects were to be afforded sufficient facilities. Ilbert remarks : "One discerns the planter following in the wake of the missionary, each watched with a jealous eye by the Company's servants."[1]

The Act of 1813 renewed the Charter of the Company and while preserving the sovereignty of the Crown granted the Indian possessions and revenues to the Company, with the monopoly of the China trade and the tea trade for a further term of twenty years.

Secondly, the Act of 1813 threw open the general Indian trade to all British merchants, subject to various restrictions laid down in the body of the Act. It empowered the Directors and, on their refusal, the Board of Control, to grant licenses to persons wishing to proceed to India for the purpose of enlightening or reforming Indians or "for other lawful purposes." It made the unlicensed persons liable to punishment as interlopers.

Thirdly, the Act regulated the application of Indian revenues. It made the maintenance of forces the first, the payment of interest the second and the maintenance of civil and commercial establishments the third charge on the revenue. Provision was also made for the reduction of the Company's debt and for the division of any surplus between the Company and the nation in the ratio of one to five. And the Company was asked to keep the commercial and territorial accounts separate and distinct.

Fourthly, the Act limited the number of troops that were to be paid out of the Company's revenue to 29,000 and empowered the Company to make laws, regulations and articles of war for their Indian troops and to provide for the holding of Court Martials.

Fifthly, the powers of superintendence and direction of the Board of Control were clearly defined and considerably enlarged ; and the local governments in India were empowered to impose taxation on persons, subject to the jurisdiction of the Supreme Court, and to punish persons in cases of non-payment.

Sixthly, the Act made a provision for religion, learning and education, and the training of Company's civil and military servants The college at Haileybury and the military seminary at Adiscombe were to be maintained and brought under the authority of the Board of Control. So were the colleges at Calcutta, Madras and elsewhere in India made subject to the regulations of the Board of Control. A Bishop and three Arch-Deacons were to be

1. Ilbert : Historical Survey, p. 72.

appointed to look to the religious welfare of the Europeans in India. And the sum of one lakh a year was to be set "apart and applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India".

Lastly, special provision was made for the administration of justice in cases in which the Britishers and Indians were both involved.[1] Special penalties were also laid down for theft, forgery and coinage offences.

VI

The three successors of Lord Wellesley were forced to follow a policy of non-intervention and peace at any price. The Marathas were allowed by Sir George Barlow to do as they pleased with the Rajput Chiefs of Central India. Lord Minto tried to steer a middle course and to persuade the authorities at home to modify their attitude. He conquerred the French Island in the Indian Ocean and the Dutch Island of Java. He succeeded in concluding a treaty with Maharaja Ranjit Singh in 1809 through the diplomacy of Sir Charles Metcalfe, by which the British frontier was advanced from the Jumna to the Sutlej.

When the Marquis of Hastings arrived in India in October 1813, he found himself confronted with "seven different quarters likely to demand the decision of arms". Lord Wellesley had pushed matters to such a point that standing still had become impossible for the British in India. Lord Hastings decided to move forward to complete the work of Wellesley.

Lord Hastings defeated Nepal and through the Treaty of Sagauli in 1816 added to the British territory the whole of Kamaon division—comprising the districts of Nainital, Almora and Garhwal,—the Dehradun district, including the hill station of Mussoorie, and some portions of the present district of Simla. Next he tackled the Pindaris, Pathans and the Marhatta Chiefs. He detached the Pathan Chief, Amir Khan, from the Marhattas and Pindaris by making him the Nawab of Tonk and then surrounded the Pindaris from all sides with a huge army. Within a few months he drove them to their mountain haunts and made them leaderless. He made treaties with most of the important Rajputana States and then attempted to break up the Marhatta power—the combined might of the Peshwa, Bhonsle (Appa Sahib) and Holkar—and within a short time succeeded in defeating them all. The Peshwa was pensioned off. Appa Sahib was deposed and his territories annexed. Indore was reduced to half its original size. Scindia was isolated and forced to remain neutral and loyal to his undertakings. Thus Lord Hastings succeeded in finally establishing his

1. For details see pp. 79-80 of Ilbert's Historical Introduction.

British supremacy in India.[1]

VII

Lord Hastings' rule in India is also significant for some important administrative changes and above all for the inauguration of more liberal and sympathetic policy towards the people of the land. He reversed the policy of Lord Cornwallis and combined magisterial functions with those of revenue collection and administration. The collector was made the chief Magistrate in his district and was also made the head of the District Police. *Daroghaships* were abolished and their functions "transferred to the headmen of the villages, assisted by the *Karnams* or village accountants, and the *Taliaris*, or other classes of village watchmen, by *Tehsildars* or native collectors, by *Zamindars*, *Amins* and *Kotwals*".[2] Lord Hastings encouraged the appointment of Indians to judicial posts and entrusted them with higher powers. He took great interest in the educational progress of the people of India. During his regime the Hindu College at Calcutta was started "to instruct the sons of Hindus in the European and Asiatic languages and sciences".[3] Marshman (Joshua) started a great centre of missionary activity and propaganda at Serampur and his son, the historian, J. C. Marshman, started a college there, which developed into a University[4] in 1827. In 1818 was published from Serampur, the first vernacular newspaper, 'Sansar Darpan,' a weekly, devoted to Christian religious propaganda.

During the Governor-Generalship of Lord Hastings the question of the control of the press assumed great importance. An exhaustive minute was written on the subject in 1822 by Sir Thomas Munro, then Governor of Madras, which not only influenced the course of legislation at the time but also affected British policy in latter times.

The earlier resolutions framed for the control of the Press were directed against the Anglo-Indian Press—(the Indian Press was not in existence at that time—which was the organ of non-official Englishmen in the country and which was very critical of the policy of the Government. The editor of the first English paper,[5] 'the Bengal Gazette', was persecuted by Warren Hastings from the beginning. Suit after suit was instituted against him until the paper ceased to exist. In 1799 stringent regulations were framed by the Government of Lord Wellesley for the better control of the

1. Lord Hastings' rule was also responsible for the acquisition of the Island of Singapore, with its strategic position, its capacious harbour and its valuable tin deposits.

2. Mill and Wilson : History of British India, Vol. VIII, p. 533.

3. Havell : A Short History of India, p. 288.

4. The Danish King, Fredrich VI, authorised the College to grant a Diploma and thus constituted it into a University, the first of its kind in India.

5. It was a weekly paper and was started by Mr. J. A. Hichey in 1780.

press. Every paper was to be inspected before publication by a Censor and immediate deportation to Europe was the penalty for offending against the regulations."[1]

Lord Hastings was a believer in the value of independent criticism in the Press and he encouraged pressmen to perform their legitimate function. He had slightly modified the regulation in the very first year of his Governor-Generalship, though censorship was continued. However, when complaints against the censor reached him he abolished the post in 1818. But this did not mean, as is sometimes stated by writers, that the press henceforth became free. On the other hand, fresh regulations were issued clearly defining the position. The 1818 regulations required the editors to desist from publishing animadversions on the proceedings of the Indian authorities in England ; disquisitions on the political transactions of the local administration, or offensive remarks on the public conduct of the member of the Council, the judges or the Bishop of Calcutta ; discussions having a tendency to create alarm or suspicion among the natives as to any intended interference with their religion ; the republication from English or other newspapers of passages coming under the preceding heads or otherwise calculated to affect the British power or reputation in India and private scandal or personal remarks on individuals, tending to excite dissensions in society".[2]

The removal of the censorship brought into existence fresh papers. In 1818, the Calcutta Journal was started by Mr. J.S. Buckingham, which soon incurred the displeasure of the Government. The editor was ordered to leave the country within two months of the service of the notice in 1823. The whole question of the Press was again reviewed by the Government and the minute of Sir Thomas Munro was carefuliy considered with the result that more stringent regulations were issued for Bengal in 1823 and for Bombay in 1827. Before summarising the Regulations of 1823 it may not be without interest to briefly state the views of Sir Thomas Munro. Sir Thomas did not regard the problem of the European Press as serious. He wrote :—" As far as Europeans only, whether in or out of service, the freedom or restrictions of the Press could do little good or harm, and would hardly deserve any serious attention"[3] ; though he advocated the maintenance of the censorship and the retention of the power to deport editors or pressmen out of the country. It was the problem of the Indian Press that caused great anxiety to Sir Thomas Munro. He wrote :—"But though the danger be distant, it is not the less certain and will inevitably overtake us if the Press became free".[4] It would corrupt and disaffect

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1. Ghosh : Press and Press Laws in India, pp. 3-4.
2. Mill and Wilson : History of British India, Vol. VIII, p. 582.
3. "The History of the Press Legislation in India," Modern Review, August, 1913.
4. *Ibid.*

the Indian Army and work for the overthrow of the British Power. "It must spread among the people the principle of liberty, and stimulate them to expel the strangers who rule over them and to establish a national government."[1] And Sir Thomas laid it down as an invariable dictum :—"A free press and the dominion of strangers are things which are quite incompatible and cannot long exist together."[2]

The views of Sir Thomas prevailed and the new regulations were placed before the Supreme Court for registration on March 15, 1823. According to them no Press could be established nor any paper or book printed without obtaining a license for the purpose from the Government. All papers and books printed under the system of licenses were to be submitted to the Government for inspection. The Government was given the power to stop the circulation of any book or paper by mere notice in the Government Gazette. A petition signed by such prominent men as Raja Ram Mohan Roy and B. Dwarka Nath Tagore, pointing out the objections to the regulations and praying for their cancellation, was presented. However, the Regulations were duly registered and came into force as law on April 5, 1823. And they continued into force till they were repealed by Sir Charles Metcalfe in 1835. Sir Charles, in spite of the fact that he was merely acting as Governor-General till a permanent successor to Lord William Bentinck was appointed, showed great courage in passing, with the help of Lord Macaulay, the Act XI of 1835, which repealed the Regulations of 1823 and 1827 and which abolished for the whole of British India the system of licenses and censorship and replaced them by one of simple registration as in England.

To return to the narration of events during the Governor-Generalship of Lord Hastings :—The last important event was the making of land settlements—on a temporary basis— in the various parts of India, in Madras, Bombay and the Agra divislon. The names of Munro and Elphinstone are closely associated with the Madras and the Bombay settlements.

The successor of Lord Hastings was a person of far inferior calibre and his rule is unimportant except for the fall of Bharatpur and the Burmese War (1824-26) which ended in the treaty of Yandaboo, after many errors in planning and execution had "caused much needless waste of life and treasure".[3] By the Treaty of Yandaboo the English received a crore of rupees and the territories of Assam, Arakan and Tenasserim, including the portion of the province of Martaban, lying east of the Salween river.

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1. "The History of the Press Legislation in India," Modern Review, August, 1913.

2. *Ibid.*

3. V. A. Smith : The Oxford History of India, p. 562.

The next decade was a period of peace and reform and of no annexations except that of Coorg[1] and two other small and unimportant annexations.[2] Lord William Bentinck's regime is noted for the abolition of *Sutee* and the suppression of *Thuggee* ; for financial economies and improvements (due to the increase of the revenue, especially from the opium monopoly) ; for "the abolition of Cornwallis' English-pattern provincial law courts, and the substitution of the vernacular for Persian in judicial proceedings and for the employment of Indians in important places—both judicial and executive "[3] The policy, however, that Lord William Bentinck pursued towards the Indian States was vacillating, variable and weak, except in the case of Mysore, where he showed great firmness and promptness. This was due to no small extent to his desire to act in accordance with the wishes of the authorities at Home ; and if his conduct is open to objection it is on the ground that he did not assert himself in cases where submission was injurious.[4]

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1. Coorg was annexed in 1834 on account of "the outrageous conduct of Vira Raja, who practised the most blood-thirsty tyranny."

2. See p. 659 of Smith : The Oxford History of British India.

3. Havel : A Short History of India, p. 241.

4. The results of his policy are thus summarised by Vincent Smith in "The Oxford History of India," pp. 658-59 :—

"In Oudh, the reforming minister, Hakim Mehta, was deserted by the British Government, and driven from the Kingdom. The Nizam's dominion were permitted to fall into disorder : support to the infant Holkar was refused with a like result and dangerous quarrels were allowed to develop in Gwalior. The Gaikwar assumed an attitude of hostility. The Rajput States were encouraged to engage in civil war ; the improvements in Udaipur were checked, at Jaipur the policy..... terminated in a catastrophe which was totally unprecedented..... *i e.*, an attack on the British officers stationed at the local court resulting in severely wounding the Resident and killing his assistant, Mr. Blake."

4

THE LAST DAYS OF THE COMPANY

I

When the question of the renewal of the Charter came up before the Parliament in 1833, the atmosphere in England had changed altogether. The gospel of *Laissez Faire* was abroad and the doctrine of the Rights of Man was being preached in the country. The Reform Bill became an Act on June 7th, 1832 and in 1833 slavery was totally prohibited in the British Empire. In this atmosphere it was not possible for the Company to secure the renewal of trade monopoly. Therefore, the first thing that the Act of 1833 did was to abolish the China trade monopoly.

Secondly, the Act of 1833 tried to remove one of the two chief defects in Indian administration of the time, *i.e.*, in the words of Mr. Charles Grant, M. P., "the union of the trader and the sovereign"[1], by asking the Company to close its commercial business "with all convenient speed"[2], and by making provision for the payment of $10\frac{1}{2}\%$ dividend to the shareholders from Indian revenues and for the accumulation of 12 million pounds for the purchase of the Company's stock. But the Parliament entrusted the adminitsration of India to the Company in spite of strong protests from Mr. Buckingham and others in the House of Commons. Mr. Buckingham called it "preposterous to leave the political government of an immense empire in the hands of a joint stock company" and suggested "for admission into supreme council in India, of some few representatives of British population in India as well as of the natives, in order to make a beginning, at least, of that system of self-government to which they ought to advance with all our colonies as fast as possible."[3]

Lord Macaulay made a memorable speech on the occasion and pleaded for retaining the Company as an organ of government for

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1. Quoted by C. L. Anand on p. 35 of his book: Introduction to the History of Government in India.

2. Section IV of the Act, Keith : Speeches and Documents on Indian Policy, Vol. I, pp. 26-27.

3. C. L. Anand : An Introduction to the History of Government in India, p. 38.

India. He quoted James Mill and held that representative government was "utterly out of the question."[1] And he denied that the House of Commons could ever be "an efficient check on abuses practised in India."[2] He said : "The House, it is plain, has not the necessary time to settle these (Indian) matters ; nor has it the necessary knowledge, nor has it the motive to acquire that knowledge. The late change in its constitution has made it, I believe, a much more faithful representation of the English people. But it is as far as ever from being representative of the Indian people. A broken head in Cold Bath Fields produces a greater sensation among us than three pitched battles in India. A few weeks ago we had to decide on a claim brought by an individual against the revenues of India. If it had been an English question the walls would scarcely have held the members who would have flocked to the division. It was an Indian question and we could scarcely by dint of supplication make a House. Even when my Right Hon. Friend, the President of the Board of Control, made his most able and interesting statement of the measures which he intended to propose for the government of a hundred millions of human beings, the attendance was not so large as I have seen it on a turnpike or a railroad bill."[3]

On the other hand, declared Lord Macaulay, there was the Company, which was "neither Whig nor Tory, neither High Church, nor Low Church. It cannot be charged with having been for or against the Catholic Bill, for or against the Reform Bill. It has constantly acted with a view, not to English Politics but to Indian Politics .....And amidst all.....agitating events the Company has preserved strict and unsuspected neutrality."[4] Its record of administration and its concern for public good in India were both admirable. "Among foreign military despotism" there has been "none that approaches it in excellence."[5] Under such circumstances, said Lord Macaulay, he was not prepared to discard the Company as an instrument of Indian governance. And the Parliament agreeing with Lord Macaulay allowed the Company to retain its territorial possessions and its administrative and political powers for another term of twenty years.

Thirdly, the Act of 1833 removed all restrictions on European immigration and acquisition of landed property in India, but "to provide against any mischief or dangers" of free admission, the Governor-General in Council were "required, by law or regulations, to provide with all convenient speed for the protection of the natives of the said territories from insults and outrage in their

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1. Keith : Speeches and Documents on Indian Policy, Vol. I, p. 234.
2. *Ibid.*, p. 235.
3. *Ibid.*, pp. 236-37.
4. *Ibid.*, pp. 239-40.
5. *Ibid.*, p. 249.

persons, religions or opinions."[1]

When the question of European colonisation was discussed in 1813 it was vehemently opposed by the Company and its high officials,[2] but in 1833 the demand for "European colonisation was strongly supported by high officials in India. Sir Charles Metcalfe and Lord William Bentinck both advocated the free admission of Europeans in India and enumerated a large number of advantages, such as the promotion of "the prosperity of our Indian Empire", "progressive increase of revenue" and the strengthening of the British hold on the country. The Select Committee of 1832 also recommended the abolition of all restrictions on the free admission of Europeans in India mainly for commercial and industrial reasons, such as making England independent of foreign raw materials, improvement in Indian raw materials, increased demand for British goods in India and increase in remittances to England or in "the Home Charges."[3] However, a number of witnesses before the Select Committee of 1832 pointed out the dangers of admitting Europeans freely into India and the harm that European colonisation would inflict on the people of the country,[4] but the views of Bentinck and Metcalfe carried the day and all restrictions against the free admission of Europeans in India were swept away.

Fourthly, the Act of 1833 laid down in very clear and emphatic language that "fitness is henceforth to be the criterion of eligibility"[5] and "that no native of the said territories, nor any natural-born subject of His Majesty resident therein, shall by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, or employment under the said Company."[6] It was this clause that made Lord Morley call the Act of 1833 as the most important Indian Act passed by the Parliament till 1909. For once narrow considerations of policy and self-interest were pushed aside[7] and broad humanitarian principles were allowed scope for expression.

Fifthly, the Act of 1833 made changes in the constitution and powers of "Governor-General of India in Council." The Governor-General's Council was enlarged for legislative work by the addition of a fourth member—the Law Member—who, however, was given no voice in ordinary executive matters ; and the Legislative powers of the Governor-General in Council were greatly increased. As pointed out by Mr. Cowell in his Tagore Lectures of 1872, the greatest

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1. Article LXXXV of the Act.
2. See p. 41 *supra*.
3. See pp. 128-29 of Shah : History of Indian Tariffs.
4. For an account of such evidence see pp. 64—94 of Major Basu's The Colonization of India by Europeans.
5. Mukherjee : Indian Constitutional Documents, Vol. I, Despatch of the Court of Directors, 1834, p. 120.
6. Clause LXXXVII of the Act.
7. Mukherjee : Indian Constitutional Documents, Vol. I, p. 120.

evil existing at the time was the conflicting and indefinite nature of the law and the law-making and administering authorities. In the first place "there were five different bodies of statute law in force,"[1] in India at the time. The Government of each Presidency had the power of making rules and regulations. The power of law-making enjoyed by the Governor-General-in-Council was wholly insufficient. The rules and regulations made by the Governor-General-in-Council could bind only the Indi n population and the servants of the Company but they had no authority over other Britishers or foreigners in the country. Moreover, they had no jurisdiction over the Supreme Court. The Act of 1833 tried to remove these defects. It took away from the Provincial Governments the power of making laws, leaving them with the simple right of submitting "drafts or projects of any laws or regulations which they may think expedient."[2] The power of making laws in India was concentrated in the hands of the Govenor-General in Council and its jurisdiction extended to all persons, and all courts, all places and all things, "within and throughout the whole and every part of the said territories, and for all servants of the said Company within the dominions of princes and states in alliance with the said Company."[3] The authority of the Crown and Parliament was duly safeguarded.[4]

The Act declared "that a full, complete, and constantly existing right and power is intended to be reserved to Parliament to control, supersede, or prevent all proceedings and acts whatsoever of the said Governor-General in Council, and in all respects to legislate for the said territories and all the inhabitants thereof in as full and ample a manner as if this Act had not been passed....."[5]. The regulations passed by the Governor-General in Council and not disallowed by the Court of Directors were to be called "Acts" and were to be placed before the Parliament but were not required to be registered or published in any court of law. Lastly, in order to end uncertainty and to make provision for a general system of law and law administration—subject, of course, "to such special arrangements as local circumstances may require"[6]—the Governor-General in Council were directed to issue a commission, called the Indian Law Commission, which was to inquire fully "into the jurisdiction, powers, and rules of the existing courts of justice and police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operation of all laws, whether civil or

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1. Quoted on p. 84. Ilbert : Historical Introduction to the Government of India.
2. Clause 66 of the Act. Mukherjee : Indian Constitutional Documents, Vol. I, p. 96.
3. Clause XLIII of the Act. Keith : Speeches on Indian Policy, Vol. I p. 268.
4. See Clause XLIII of the Act. *Ibid.*, p. 268.
5. Clause LI of the Act. *Ibid.*, pp. 269-70.
6. Clause LIII of the Act. *Ibid.*, pp. 270-271.

criminal, written or customary, prevailing and in force in any part of" India and to report to the Governor-General-in-Council. The first Law Commission was presided over by Lord Macaulay, and though it did not do as much as was expected of it, still the Indian Penal Code—which became law in 1860—was the direct result of its labours. It also paved the way for the preparation of the Codes of Civil and Criminal Procedure.

Sixthly, the Act of 1833 provided for the division of the overgrown Presidency of Bengal into two Presidencies, but this provision never came into operation. It was suspended first by the Act of 1835 and later by the Act of 1853.

Seventhly, the Act of 1833, directed the Governor-General in Council to take steps for the amelioration of the slaves in India and to propose measures for the abolition of slavery throughout India.

Eighthly, the Act of 1833 increased the Bishoprics to three and made the Bishop of Calcutta the Metropolitan Bishop in India.

Lastly, the Act provided for the training of civil servants for India at the Company's College at Haileybury and regulated admissions to that College.

II

For over a decade controversy had been going on between the Orientalists and the Anglicists as to the type of education which should be encouraged in India. Lord Macaulay on his appointment as chairman of the Committee of Public Instruction threw in his whole weight on the side of English education and the decision of the Government was issued in the Resolution of March 7th, 1835, that "the great object of the British Government ought to be the promotion of European literature and science among the natives of India, and that the funds appropriated to education would be best employed in English education alone."[1]

The regime of Lord Auckland is only noted for the catastrophe of the first Afghan War, which was the direct result of Palmerston's anti-Russian policy ; and that of his successor for a campaign of revenue in Afghanistan, for "the unprincipled annexation of Sind by Lord Ellenborough and Sir Charles Napier"[2] and for the abolition of slavery. An Act was passed by the Governor-General in Council in 1843 (Act V of 1843) prohibiting the legal recognition of slavery in India.

The most important event of Lord Hardinge's regime was the first Sikh War fought in 1845 and 1846 and famous for "the critical nature of the contest with the bravest and steadiest enemy ever

1. Smith : Oxford History of India, p. 670.
2. *Ibid.*, p. 673.

encountered in India by a British Army."[1] The Sikh army was defeated at Sabraon on February 10th, 1846, and Lahore was promptly occupied by the British. The war was ended by the Lahore Treaty by which all lands on the British side of the Sutlej, the Jullundur Doab between the Sutlej and the Beas, and the Kashmir and Hazara territories were ceded to the British besides the payment of half a million sterling and the surrender of many guns. The Sikh army was limited to 20,000 infantry and 12,000 cavalry. A British Resident was to remain at Lahore to supervise the Government of the Punjab by the minor Maharaja Duleep Singh and his Chief Minister, Sardar Lal Singh.

In January 1848, Lord Dalhousie arrived in India. He was broken down in health and was "an invalid, almost a cripple, when he landed in Calcutta though he was only 35 years of age at the time. He was Governor-General for full eight years, but "he was never really well and usually was suffering from acute pain."[2] Yet his regime was a most memorable one and he is given a place among the front rank Governors-General—by the side of Warren Hastings, Wellesely, and the Marques of Hastings.

The regime of Lord Dalhousie is famous alike for its wars and annexations as well as for administrative reforms and beneficient public works. As a result of the 2nd Sikh War the Punjab right up to Peshawar was annexed to the British territory in 18 9. The Second Burmese War resulted in the addition of Rangoon, Prome and the whole of the province of Pegu to the British territory and in bringing the entire eastern coast from Chittagong to Singapore under British control.

Lord Dalhousie enlarged the British dominion in India not only through 'conquest but also through what is ordinarily known as the doctrine of lapse, *i.e.*, through the failure of heirs. In this way, Satara, Nagpur, Jhansi, Jaitpur, Sambalpur, and a few other small states were annexed by Lord Dalhousie. The annexation of Oudh stands on a different footing, which was done in a more high-handed fashion. Sikkim was taken as a penalty for the seizure of Dr. Campbell and Dr. Hooker by the then King and Berar was obtained from the Nizam to provide for the maintenance of the subsidiary force. The adopted son of Peshwa Baji Rao II was refused the allowance of 8 lakhs a year allowed to his father ; and advantage was taken of the death of the titular Nawab of Carnatic in 1855 to revise the rank and allowance of his family. In short, Lord Dalhousie tried to increase British dominion and power in India by all means he could devise. His policy of wholesale annexations must bear its share of responsibility in bringing about the Rising of 1857.

Lord Dalhousie was a man of feverish activity and great zeal.

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1. Smith : Oxford History of India, p. 695.
2. *Ibid.*, p. 699.

He supervised the work of each department of the government and introduced many reforms and innovations. He arranged the work of the Supreme Government on the departmental basis. He appointed a separate Lieutenant-Governor of Bengal. He created a separate Public Works department, increased expenditure on Public Works, started the making of the Grand Trunk Road, the building of irrigation canals and the construction and planning of railway lines. He founded the electric telegraph system and introduced the uniform half anna postal rate. He gave full effect to the instructions contained in the famous Wood Despatch of 1854 and laid the foundation of the present educational system of the country. Lord Dalhousie also made arrangements for the reorganisation of the army in India and wrote as many as nine elaborate minutes on the question, though they were pigeonholed at the India House and were scarcely noticed. And it was also during Lord Dalhousie's Governor-Generalship that the question of the renewal of the Company's Charter came up before the Parliament for the last time.

III

So far opposition to Company's rule had emanated from English sources. It were either the English merchants or the English radicals or humanitarians who objected to renewals of the Charter. But the renewal of the Charter in 1853 was opposed chiefly by Indians. Section 87 of the Act of 1833 had roused high hopes among Indians. Several young men had gone to England to qualify themselves for holding office in India. But they were greatly disappointed on their return. As pointed out by Mr. Cameron—a member of the Council of the Governor-General and Chairman of the Indian Law Commission—"during the twenty years that have since elapsed [the passing of the Act of 1833] not one of the natives has been appointed to any office except such as they were eligible before the statute".[1] Inhabitants of the three Presidencies sent signed petitions to the Parliament against the granting of any extension to the Company. The Bengal petition asked for the abolition of the double system and the appointment of the Secretary of State and an India Council, partly elected and partly nominated in its place; for the creation of a separate legislature for India; for making the Governor-General act with the consent of his Council; for giving a sort of provincial autonomy to the Presidencies; for increasing the salaries of men in subordinate services and decreasing those of men in higher offices; and for throwing the civil services open to all British subjects; which should be recruited by means of competitive examinations.[2]

Both the Houses of the British Parliament appointed committees of enquiries in 1852 and on the basis of enquiries made by ese committees the Charter Act of 1853 was framed.

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1. Quoted by C. L. Anand in his Introduction to the History of Government in India, Part II, p. 41.

2. *Ibid.*, pp. 42-43.

The Charter Act of 1853, in the first place, renewed the powers of the Company and allowed it to retain possession of the Indian territories "in trust for Her Majesty, her heirs and successors," not for any definite period, as the previous Charter Acts had done, but "only until Parliament shall otherwise provide."

Secondly, the Act of 1853 reduced the number of Directors from 24 to 18, out of whom six were to be appointed by the Crown.

Thirdly, the Act relieved the Governor-General of the Governorship of Bengal and provided for the appointment of a separate Governor of Bengal. But until it was decided to appoint a separate Governor the Act authorised the Governor-General to appoint a Lieutenant-Governor with the permission of the Directors and the Board of Control. Separate Governor for Bengal was not appointed till 1912 though a Lieutenant Governor was appointed in 1854.

Fourthly, in view of the recent annexations, the Act empowered the Directors to create one more Presidency, with the same system of government as in Madras or Bombay, or, in the alternative, to authorise the appointment of a Lieutenant Governor. The Lieutenant-Governorship of the Punjab was created under the authority given by this Section in 1859.

Fifthly, the legislative member of the Council of the Governor-General was made a full member of the Council and was given the right to sit and vote at its executive meetings as well.

Sixthly, the Act of 1853 created for the first time a separate legislative council[1] for India. As pointed out by the authors of the Montford Report, legislation was for the first time treated as a special function of government requiring special machinery and special processes."[2] The Council of the Governor-General was enlarged for legislative purpose by the addition of six new members, called the legislative members. The Council in its legislative capacity was thus to consist of 12 members—the Governor-General, the Commander-in-Chief, four members of the Council and six legislative members of whom two were English judges (chief justice and a puisne judge) of the Calcutta Supreme Court and the other four were officials appointed by the local governments of Madras, Bombay, Bengal and Agra. These four representatives of the provincial Governments were paid an annual salary of £5,000 each. It was in this manner that local representation was introduced at first in the Indian legislature. The business of the Council was conducted orally and for the first time in public. Every bill was discussed properly and examined in a select committee. "There was at least one member present with local knowledge, and what may be called the English law element in

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1. Strictly speaking it was not a separate Legislative Council. The Executive Council was only enlarged for purposes of legislation.

2. Report on Indian Constitutional Reforms, 1918, p. 38.

the Council was greatly increased."[1] It did not confine itself solely to the legislative work but assumed "the character of a miniature representative assembly, assembled for the purpose of inquiry into, and redress of, grievances."[2] No measure, however, could become law unless it was assented to by the Governor-General.

Seventhly, the Act of 1853 authorised the appointment of a body of English Commissioners to examine and consider the recommendations of the Indian Law Commission, which had ceased to exist by that time.

Eighthly, the Act made provision for the payment of the members of the Board of Control and the secretary and other officers by the Company. The salaries were to be fixed by His Majesty and the salary of the President was to be in no case less than the salary paid to any one of the Principal Secretaries of State.

Lastly, the Act took away from the Directors the right of patronage to Indian appointments and directed the Board of Control to frame regulations for the purpose. A committee was appointed in 1854, with Lord Macaulay as the President, which framed the regulati ns according to which the Covenanted Civil Service was thrown open to general competition. Admissions to Haileybury College were stopped from January 1856 by an Act of 1855,[3] which directed the closing of the College from January 31st, 1858. The Company itself had asked for the closing of the College as early as 1833, their reasons being the great expense of the College and "the disadvantage which resulted from confining the associations of youth destined for foreign service to companions all having the like destination."[4]

Another Act which had important administrative results in India was passed by Parliament in 1854.[5] It "empowered the Governor-General in Council, with the sanction of the Court of Directors and the Board of Control to take by proclamation under his immediate authority and management any part of the territories for the time being in possession or under the government of the East India Company, and thereupon to give all necessary orders and directions respecting the administration of that part, or otherwise provide for its administration."[6] This power was exercised in actual practice by the appointment of Chief Commissioners to whom all such powers as were not required by the Central Government were delegated. It is under this Act that the various Chief Commissionerships—of Assam, the Central Provinces, North Western

1. Report on Indian Constitutional Reforms, 1918, p. 38.
2. *Ibid.*, p. 39.
3. 18 and 19 Victoria C. 53. Ilbert : Historical Introduction, p. 93.
4. Quoted by B. K. Thakore in his Indian Administration to the Dawn of Responsible Government, p. 62.
5. 17 and 18 Victoria C. 77, Mukherjee : Indian Constitutional Documents, Vol. I, pp. 132-34.
6. *Ibid.*, p. XIX.

Frontier Province, Burma, British Baluchistan, and Delhi—have been constituted from time to time. The Act of 1854 also empowered the Governor-General in Council with the sanction of the Directors and the Board of Control to limit and define the boundaries of the verious provinces and directed that the Governor-General was no longer to bear the title of the Governor of Bengal.

IV

Lord Dalhousie firmly believed that he was bequeathing a peaceful India to his successor in office little knowing that he had sown seeds of discontent which were bound to germinate soon and be a source of grave danger to British rule in the country. The wars and annexations of Lord Dalhousie had annoyed and unsettled both the army and the ruling classes in India. The "aggressive European innovations" had roused the conservative and orthodox instincts of the people. The zealous missionary propaganda countenanced and aided by officials aroused fear of forcible conversion. Canning's decision "that the imperial rank should no longer be recognised after the death of Bahadur Shah"[1] irritated him and his followers. And there were enough of other displeased and dispossessed nobles like Nana Sahib, Rani of Jhansi, etc., to make use of the inflammable material. On the other hand, the British position was very weak. The organisation, distribution and the personnel of the British army were gravely defective. Discipline in the army was hopelessly lax. "Strategical points (like Delhi and Allahabad), and most of the guns were left in the hands of the native army."[2] Expeditions had been sent to the Persian Gulf and China leaving the Indian defences, especially in Bengal and the North Western Provinces, very weak. The time was thus ripe and propitious for a revolt. Greased cartridges furnished a good enough excuse and the Rising began on January 23rd, 1857, at Dumdum near Calcutta. Spreading to Barrackpur in March, Ambala in April, Meerut, Lucknow and Delhi in May. In May the conflagration became general ; and regular fighting began. There were five main areas of operation—Delhi, Lucknow, Cawnpore, Rohilkhand and Central India with Bundelkhand. The timely aid of the Sikhs, of Sir Dinkar Rao of Gwalior, Sir Salar Jung of Hyderabad and Sir Jung Bahadur of Nepal and the heroism of several British officers saved the situation. The Rising was suppressed and the rebel hosts were defeated. Lost places were recovered and the authors of the revolt were punished, killed or driven away. And peace was again restored in British India.

In restoring order, however, the British committed great atrocities, the memory of which rankled in Indian mind long after the rising was suppressed and produced consequences whose significance escaped recognition till long afterwards. "The English killed their prisoners without trial and in a manner held by all Indians

1. Cambridge History of India, Vol. V, p. 607.
2. Smith : The Oxford History of India, p. 712.

to be the height of barbarity 'sewing Muhammadans in pig-skins, smearing them with pork-fat before execution, and burning their bodies, and forcing Hindus to defile themselves.' They also massacred thousands of the civilian population, not only in Delhi, but also in the countryside. General Neill.....gave orders to his lieutenants that certain guilty villages were marked out for destruction and all the men inhabiting them were slaughtered, and the indiscriminate burning of their inhabitants occurred wherever our (English) armies moved."[1] Russel, who was correspondent of *The Times*, London, at the time, gives in his Diary harrowing details of the barbarities practised by the British troops. It is not necessary to give extensive quotations here; one, which is typical of others, ought to suffice. This is what he writes of Havelock's advance guard :—

"The officer in command was emulous of Neill, and thought he could show equal vigour. In two days forty-two men were executed because their faces were 'turned the wrong way' when they were met on the march. All the villages in front were burned when he halted. These 'severities' could not have been justified by the Cawnpore massacre because they took place before that diabolical act."[2]

Such 'severities' could not be easily forgotten. They produced a plentiful crop of racial bitterness which might have disappeared by the lapse of time had it not been reinforced from time to time by "strong action" as Jallianwala Bag in 1919.

V

The events of 1857 brought the Company rule to an end. As remarked by Bright, "The conscience of the nation had been touched on the question, and it came by a leap—as it were by an irrepressible instinct—to the conclusion that the East India Company must be abolished."[3] While introducing the Bill in the House of Commons on February 12, 1858, the Prime Minister, Lord Palmerston, made a memorable speech giving his reasons for ending the system of Double Government. The first great defect of Company rule, as pointed out by Lord Palmerston, was its utter irresponsibility. "The principle of our political system is that all administrative functions should be accompanied by ministerial responsibility—responsibility to Parliament, responsibility to public opinion, responsibility to the Crown ; but in this case the chief functions in the government of India are committed to a body not responsible to Parliament, not appointed by the Crown, but elected by persons

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1. Garrat: An Indian Commentary, p. 112.

2. Russel, Diary I, p. 222, quoted by G.T. Garrat, I.C.S. (Retd.) in An Indian Commentary, p. 113.

3. Speech of Lord Palmerston, Keith : Speeches on Indian Policy, Vol. I, p. 320.

who have no more connection with India than consists in the simple possession of so much stock."[1]

The second defect described by Lord Palmerston was the inconvenient, cumbrous and complex nature of the system of "Double Government". "The functions of government and the responsibility have been divided between the Directors, the Board of control and the Governor-General in India," "and among these authorities it is obvious that despatch and unity of purpose can hardly by possibility exist."[2] "Before a despatch upon the most important matter can go out to India it has to oscillate between the Cannon Row and the India House .....and that the adventures of a despatch between these two extreme points of the metropolis are often as curious as those *adventures of a Guinea* of which we have all read."[3]

Lord Palmerston proposed to remove these defects by abolishing the Courts of Directors and Proprietors and by substituting for these bodies a President, who "shall be a member of the Government, and shall be the organ of the Cabinet with reference to all matters relating to India, assisted by a Council."[4] The Council was to consist of eight members, nominated by the Crown, "with the condition that they shall either have been Directors of the East India Company, have served for a certain period in India either in a civil or military capacity or have resided there for a certain number of years unconnected with the local administration."[4] They were to hold office for eight years, two retiring by rotation every second year. The President was to have final authority except in "matters involving increased expense to the Indian revenue."[5]

In the end Lord Palmerston tried to answer the arguments and objections of the Company : The first objection raised by the Company against the transference of the Government to the Crown was the ineffective and undesirable nature of the Parliamentary check as compared with the independent, expert, non-party, impartial check of the Court of Directors. Lord Palmerston answered it by referring to the sense of responsibility and the wisdom and statesmanship of the Parliament and by pointing out "that the greater part of those improvements which the East India Directors boast of.....has been the result of pressure on the Indian Administration by debates in Parliament....."[6] Sir George Cornwall Lewis was more emphatic on the point. "I do most confidently maintain," said he, "that no civilized government ever existed on the face of this earth which was more corrupt, more perfidious and more rapacious than the Government of the East

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1. Keith : Speeches on Indian Policy, Vol. I, p. 322.
2. *Ibid.*, p. 323.
3. *Ibid.*, p. 324.
4. *Ibid.*, pp. 329-30.
5. *Ibid.*, p. 330.
6. *bid.*, p. 309.

India Company from the year 1565 to 1784"[1] and he appealed to the records of Parliament, to reports and documents of the House "for conclusive documentary proof of the character of the East India Company as a political body." It was the Parliamentary control that began in 1784 which had made the rule of the Company tolerable.

The Company had pointed out the indispensibility "of a council composed of statesmen experienced in Indian affairs"[2] as an adjunct to the minister and doubted whether "a body can be constituted which unites the above enumerated requisities of good government in a greater degree than the Court of Directors.[3] Lord Palmerston accepted the necessity of a Council to advise the minister and provided for one in the Bill he introduced and gave it most of the characteristics considered indispensable by the Company.

The Company, thirdly, had pointed out the dangers of entrusting the right of patronage to a minister of the Crown and attributed the excellence of the services in India "to the circumstance that the dispensers of the patronage have been persons unconnected with party, and under no necessity of conciliating Parliamentary support."[4] Lord Palmerston answered this objection by showing "that no addition of patronage will devolve on the Executive Government of an amount which need excite the least constitutional jealousy on the part of the House of Commons.[5]

Lastly, the Company pleaded "that, even if the contemplated change could be proved to be in itself advisable, the present is the most unsuitable time for entertaining it" and it urged upon the Parliament "the expediency of at least deferring any such change until it can be effected at a period when it could not be.....directly connected with the recent calamitous events....."[6] Lord Palmerston replied by pointing out that it is only in times of peculiar emergencies that inconveniences of different systems of administration are forced on the attention of the Government and the public; that "we do not intend to make any alteration in the existing arrangement in India;"[7] and that there can be no sense in prolonging "the existence of the present weak instrument, instead of substituting for it a stronger, more powerful, and more effectual machine,"[8] especially when the task of restoring peace is admittedly a most difficult one. And he concluded by saying: "I see no

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1. Keith: Speeches on Indian Policy, p. 349.
2. *Ibid.*, p. 340.
3. *Ibid.*, p. 315.
4. *Ibid.*, p. 312.
5. *Ibid.*, p. 332.
6. *Ibid.*, p. 307.
7. *Ibid.*, p. 327.
8. *Ibid.*, p. 328.

reason, either on the score of principle or on the score of the augmentation of patronage, or on the score of time, or constitutional danger, why we should not at once pass the measure".[1] The measure, however, was not destined to be put on the Statute Book. Shortly after its second reading Lord Palmerston was turned out of office on the conspiracy to murder Bill and was succeeded by Lord Derby, with Mr. Disraeli as the leader of the House of Commons.

The new ministry had no alternative but to continue the policy of the Palmerston ministry. On April 30, 1858, the House passed 14 resolutions on the basis of which the Government drew up a new Bill, which ultimately became the Act for the Better Government of India, 1858.

VI

This Act of 1858 transferred the Government of India from the Company to the Crown. India was henceforth to "be governed by and in the name of Her Majesty"[2] "and all the territorial and other revenues of or arising in India.....shall be received for and in the name of Her Majesty, and shall be applied and disposed off for the purposes of the Government of India alone."[2]

Secondly, the powers of the Board of Control and the Court of Directors were all transferred to one of Her Majesty's Principal Secretary of State. The Crown was empowered to appoint a fifth Secretary of State to be placed in charge of Indian governance, but who was to be paid out of Indian revenues.

Thirdly, the Act created "a Council of India" consisting altogether of 15 members, seven of whom were to be elected by the Court of Directors and the remaining eight were to be appointed by the Crown, provided, in each case more than half—in all at least nine—were to be persons who shall have served or resided in India for ten years at the least, and shall not have last left India more than ten years next preceding the date of their appointment."[3] Future vacancies were to be filled by the Crown. Members were to hold office during good behaviour but could be removed "upon an address of both Houses of Parliament"[4], but each one was to be paid "the yearly salary of one thousand and two hundred pounds, out of the revenues of India."[5]

The Council was charged with the duty of conducting under the direction of the Secretary of State, "the business transacted in the United Kingdom in relation to the Government of India and

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1. Keith : Specehes on Indian Policy, Vol. I, p. 328.
2. Clause II of the Act, *Ibid.*, p. 370.
3. Clause X of the Act. *Ibid.*, p. 372.
4. Clause XII of the Act, *Ibid.*, p. 374.
5. Clause XIII of the Act, *Ibid.*, p. 374.

the correspondence with India."[1] The Secretary of State was made the President of the Council with power to vote,[2] and in cases of equality of votes, was to have a casting vote as well.[3] The Secretary of State was to fix the time of meetings, provided that at least one meeting was held every week,[4] and he had also the power of dividing "the Council into Committees for the more convenient transaction of business."[5] "If a majority of the Council record..... their opinion against any act proposed to be done, the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto"[6]; but no grant or appropriation of any part of the Indian revenues, etc. was to "be made without the concurrence of a majority of votes at a meeting of the Council."[7] The concurrence of a majority of members present at a meeting was also required "to make regulations for the division and distribution of patronage and power of nomination among the several authorities in India ;"[8] to make contracts, sales and purchases and to raise loans, etc., on behalf of the Government of India ; and in all matters connected with the property and all real and personal estate of the Government of India. The Secretary of State, however, was given the power of sending to and receiving secret dispatches from the Governor-General without having the necessity of communicating them to the members of his Council. He could also send urgent dispatches to India without first submitting them to the Council, but he had to state his reasons for considering the matters urgent.

Fourthly, the Act of 1858 divided the patronage between the Crown, the Secretary of State in Council,[9] and the authorities in India. All appointments and all promotions "which by law, or under any regulations, usage, or custom, are now made by any authority in India, shall continue to be made in India by the like authority." Appointments to the Covenanted Civil Service were to be made by open competition under rules to be made by the Secretary of State in Council with the assistance of the Civil Service Commissioners.

Fifthly, the Act of 1858 transferred the military and naval forces of the Company to the service of the Crown. They "shall be deemed to be the Indian Military and Naval Forces of Her Majesty .....and shall be liable to serve within the same territorial

1. Clause XIX of the Act, Keith : Speeches on Indian Policy, p. 374.
2. Clause XXI, *Ibid.*, p. 375.
3. Clause XXIII, *Ibid.*, p. 375.
4. Clause XXII, *Ibid.*, p. 375.
5. Clause XX, *Ibid.*, p. 374.
6. Clause XXV, *Ibid.*, p. 376.
7. Clause XII, *Ibid.*, p. 378.
8. Clause XXX, *Ibid.*, p. 377.
9. The patronage to military cadetships was divided between the Secretary of State and his council. *Ibid.*

limts only, for the same terms only, and be entitled to the like pay, pensions, allowances and privileges and the like advantages as regards promotions and otherwise as if they had continued in the service of the said Company."[1] The power of altering conditions and terms of service for "persons hereafter entering Her Majesty's Indian Forces" was given to the Crown.

Sixthly, the Act required the Secretary of State in Council to 'ay before both Houses of Parliament an account for the financial year preceeding that last completed of the annual produce of the revenues of India .....and such account shall be accompained by a statement prepared .....in such form as shall best exhibit the moral and material progress and condition of India....."[2]. The Act also required the communication of orders for the commencement of hostilities to Parliament within three months of the sending of orders to India ; and that "the revenues of India shall not, without the consent of both the Houses of Parliament be applicable to defray the expenses of any military operations carried on beyond"[3] the Indian frontiers.

Lastly, the Act of 1858 constituted the Secretary of State in Council as a body corporate, capable of suing and being sued in India and in England.

VII

The Act for the Better Government of India received the royal assent on August 2nd, 1858. On September 1st, the Court of Directors held "its last solemn assembly" and the Company issued "its last instructions to its servants in the East", paid high compliments to its officers in India, and offered to its Sovereign the empire it had built with great enterprise and skill, in very touching words :—

"Let Her Majesty appreciate the gift—let her take the vast country and the teeming millions of India under her direct control ; but let her not forget the great corporation from whom she has received them, nor the lessons to be learned from its success."[4]

Thus ended the regime of the Great John Company in India.

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1. Clause LVI, *Ibid.*, p. 380.
2. Clause LIII, *Ibid.*, p. 379.
3. Clause IV of the Act, *Ibid.*, 380.
4. Smith : The Oxford History of India, p. 707.

PART II

INDIA UNDER THE CROWN

PERIOD I

1861—1892

PART II

INDIA UNDER THE CROWN

5

THE BEGINNINGS OF REPRESENTATIVE INSTITUTIONS

I

The passing of the Government of India Act, 1858, closed one great period of Indian history and ushered in another great era—the direct rule of the Crown. The transference was announced by a Royal Proclamation issued on November 1st, 1858. The Proclamation was couched in a beautiful and dignified language and breathed a spirit of magnanimity, clemency, friendliness and justice and assured to the Princes their rights, dignity, honour and privileges and to the people freedom of religion and equal protection of law, admission to officers, irrespective of their race or creed, on the basis of education, ability and integrity.

II

Chief among the causes of the Indian Revolt of 1857 was the lack of any real touch between the rulers and the ruled. As was pointed out by Sir Saiyid Ahmad, the exclusion of Indians from the Councils deprived the Government of the opportunity of knowing the views of the people and of removing any misunderstandings that might exist among the people of the views and intentions of the Government.[1] Sir Bartle Frere, therefore, urged in his famous Minute of 1860, "the addition of the native element"[2] to the Councils.

The question of giving representation to Indians was raised in the British Parliament in 1858 but it was considered impolitic to grant it "when a considerable portion of the natives "were" still in arms against "the British", as was pointed out by Mr. Gladstone. And it was not until 1861 that provision was made for associating Indians with the work of legislation in India.

The system of making laws in India was gravely defective. In the first instance, as pointed out above, no non-officials—Europeans or Indians—were associated with the work of legislation.

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1. C. L. Anand : Introduction to the History of Government in India, Part II, pp. 72-3.

2. Report on Indian Constitutional Reforms, 1918, p. 38.

Secondly, the Legislative Council had neither the time nor the requisite knowledge in spite of the presence of one official representative of each provincial government—for enacting the necessary legislation for the Presidencies of Madras and Bombay and the other newly carved provinces. Thirdly, the Legislative Council had assumed functions which were wholly inconsistent with the existing system of government. Contrary to the intentions of the framers of the Act of 1853, it had developed into "an Anglo-Indian House of Commons," questioning the executive and its acts and forcing it to lay even confidential papers before it. It had refused to submit legislative projects to the Secretary of State before their consideration in the Council and had refused to pass any legislation required by the Secretary of State (or the President of the Board of Control before 1858). On the other hand, it asserted its right of independent legislation. Sir Charles Wood protested again and again, repeating that he had not intended to give any such powers to the Council but, as pointed out by Professor Dodwell, "he was neither the first nor the last legislator to fail in limiting the consequences of a Bill to his intentions."[1] The difficulties of the situation were pointed out forcefully by Lord Canning in 1860, in a despatch to the Secretary of State for India, which also contained the proposals of Lord Canning for remedying the situation. In the meantime certain events occurred in India which precipitated the passing of the Indian Councils Act of 1861. "Differences arose between the Supreme Government and the Government of Madras about the Income-tax Bill; serious doubts were expressed about the validity of the laws introduced into.....non-regulation provinces without enactment by the Legislative Council; and finally the Governor-General's Legislative Council presented an address asking that certain correspondence between the Secretary of State and the Government of India be communicated to it.[2] Consequently, on June 6, 1861, Sir Charles Wood asked for leave of the House of Commons to introduce the Bill which, in due course, became the Indian Councils Act, 1861.

III

The Indian Councils Act, 1861, is important in the constitutional history of India for two chief reasons. Firstly, because it enabled the Governor-General to associate the people of the land with the work of legislation, and, secondly, by restoring legislative powers to the Governments of Bombay and Madras and by making provision for the institution of similar legislative councils in other provinces, it laid the foundations of the policy of legislative devolution which resulted in the grant of almost complete internal autonomy to the provinces in 1937. The question of giving representation to Indians was discussed at length by Sir Charles Wood, the Secretary of State for India, opening in his speech in Parliament but was regarded as

1. Dodwell: History of India from 1858-1918, p. 235.
2. Report of Indian Constitutional Reforms, 1918, p. 39.

"simply and utterly impossible."[1] However, it was considered necessary to associate Indian chiefs and nobles with the work of legislation "to conciliate to our rule the minds of natives of high rank,"[2] and provision was made in the Act empowering the Governor-General to nominate a certain number of additional members to the Executive Council for purposes of legislation.

The Act of 1861, in the first place, enlarged the Executive Council of the Governor-General by the addition of the fifth ordinary member—"a gentleman of the legal profession, a jurist rather than a technical lawyer."[3] Three of the five members were to be "from among such persons as shall have been, at the time of such appointment, in the service in India for at least ten years[4] and of the remaining two "one shall be a barrister or a member of the Faculty of Advocates in Scotland of not less than five years standing."[5] The Secretary of State retained the power of appointing the Commander-in Chief as an extraordinary member. And provision was made for co-opting the Governor or the Lieutenant-Governor of the province, in which the meeting of the Council was held, as an extraordinary member. The Act empowered the Governor-General in Council to appoint, in case of the anticipated absence of the Governor-General from headquarters, a President of the Council with all powers of the Governor-General, "except that of assenting to or withholding his assent from or reserving for the signification of Her Majesty's pleasure, and law or regulation as hereinafter provided."[6] The Governor-General-in-Council were also empowered to authorise "the Governor-General alone to exercise all or any of the powers of the Governor-General-in-Council except those of making laws or regulations."[7]

The Act empowered the Governor-General "to make rules and orders for the more convenient transaction of business in the..... .....Council."[8] This power was utilised by Lord Canning to introduce[9] the portfolio system in the Indian Government and to make provision for the settlement of minor matters by the member-in-charge of the department, of matters of greater importance in consultation with the Viceroy, and of matters of general policy in the Council.

Secondly, the Act of 1861 enlarged the Council of the Viceroy

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1. Pradhan : India's Struggle for Swaraj, p. 45.
2. See the speech of Sir Charles Wood on June 6th, 1861, Keith : Speeches and Documents on Indian Policy, Vol. II, p. 7.
3. Clause III of the Act, *Ibid.*, p. 21.
4. Clause IX of the Act. *Ibid.*, p. 25.
5. Clause VI of the Act, *Ibid.*
6. Clause IX of the Act, *Ibid.*, p. 25.
7. Clause VI of the Act, *Ibid.*
8. Clause VIII of the Act, Keith : Speeches and Documents on Indian Policy, Vol. II.
9. The portfolio system was informally introduced by Lord Canning in 1859 but it had no sanction behind it. This sanction it received through the Act of 1861.

for purposes of making laws and regulations by the addition of not less than six nor more than twelve additional members, "provided that not less than one-half of the persons so nominated shall be non-official members."[1] The term of office for the additional members was two years. Sir Charles Wood was very careful in limiting and defining the powers of the Council this time on account of the functions assumed by the Council constituted under the Act of 1853.

The power of legislation given was also strictly circumscribed. Measures relating to the public debt or public revenue, religion, military and naval matters were not to be introduced without the previous sanction of the Governor-General. The Governor-General was given an absolute right of veto as well as the power to make and promulgate ordinances.[2] The right to disallow Acts was reserved for the Crown and the general authority of the Parliament and of the Crown was expressly preserved.

Thirdly, the Act of 1861 restored to the Governments of Madras and Bombay powers of making and amending laws, subject to securing the previous sanction of the Governor-General in certain cases[3] and the power of veto of the Governor-General and of disallowance by the Crown on the advice of the Secretary of State for India.

For the purpose of provincial legislation the Governor of each Presidency was empowered to nominate the Advocate-General of the Presidency and "not less than four nor more than eight" other persons as additional members of the Council "provided that not less than half of the persons so nominated shall be non-officials."[4] The Governor-General was directed to create a similar Legislative Council for the Bengal Division of the Presidency of Fort William. The Governor-General-in-Council was further empowered "to extend the same provisions to the territories known as the North Western Provinces and the Punjab respectively."[5] A Legislative Council for Bengal was established in January 1862, for the North Western Provinces and Oudh in 1886, and for the Punjab in 1897.

Lastly, the Governor-General was empowered to create new provinces for legislative purposes and to appoint Lieutenant-Governors for them; and to divide or alter the limits of any Presidency, Province or Territory.

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1. Clause 19 of the Act. *Ibid.*, pp. 28-9.
2. Clause 22 of the Act. *Ibid.*, p. 30.
3. Previous sanction was required in the case of measures relating to public debt or public revenues imposed by the Government of India, currency matters, postal and telegraphic communications, military and naval matters, patents and copyrights and foreign relations.
4. Clause 29 of the Act. Keith: Speeches and Documents on Indian Policy, Vol. II, pp. 35-6.
5. Clause 44 of the Act, *Ibid.*, p. 41.

IV

In the year 1861, two other important Acts were passed by the Parliament. The first was called the Indian Civil Service Act, 1861. The chief object of this Act was to legalise certain appointments made in the past, owing to the exigencies of the time in contravention of the terms[1] of the Charter Act of 1793 and to reserve almost all higher civil appointments for the members of the Covenanted Civil Service. These appointments were enumerated in a Schedule and ranged from below the rank of Executive Councillorships including the Secretaryships of the departments of both the Government of India and the various Provincial Governments, the posts of the Accountants-General, the memberships of the Boards of Revenue, etc., to the grade of Assistant Collectors.

For the recruitment of members to the Covenanted Civil Service open competitive examinations were held in London once every year under the supervision of the Civil Service Commissioners according to the rules framed by the Secretary of State in Council. In 1860, the maximum age for candidates to appear at the Civil Service examination was lowered to 22 and in 1866 to 21, which meant that the Covenanted Civil Service—and, with the passing of the Act of 1861, all higher civil appointments in the country—was effectively closed to Indian youths in defiance of all the pledges given to the Indian people by both the Crown and the Parliament. It was not possible for Indians to compete in London at such a tender age under the then existing social and educational conditions in India. In this connection it may be mentioned that a Committee of five members of the India Council was appointed in 1860 to suggest methods of redeeming Parliamentary pledges to Indians. The Committee recommended the only feasible method, that of holding simultaneous examinations in England and in India, for the recruitment to the Covenanted Civil Service. This recommendation was, however, not acted upon, in spite of the assurance of the Civil Service Commissioners that they did not anticipate much difficulty in arranging for this".[2] And it is interesting to note that the Report of the Committee of 1860 is not included in the papers officially published by the Government of India on the subject.

V

The second Act passed in 1861 was the Indian High Courts Act of the year. As a result of the labours of the Law Commis-

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1. According to the Act of 1793 all civil posts under the rank of Councillorship were reserved for the civil servants of the Presidency and promotion in the service was to be regulated strictly according to seniority. These restrictions were not actually observed, hence the need for legalising the appointments by the Act of 1861.

2. Quoted by Mr. Ramsay Macdonald in his book, Government of India, p. 103.

sioners, who were appointed under the Acts of 1833 and 1853, laws and procedures were codified. The Code of Civil Procedure became law in 1859, the Indian Penal Code in 1860, and the Code of Criminal Procedure in 1861. Another important step that was taken to improve the administration of justice in India was the passing of the Indian High Courts Act in 1861. This Act empowered the Crown, by Letters Patent, to establish High Courts of Judicature at Calcutta, Madras and Bombay, and upon their establishment the old Supreme Courts and the Sadar Diwani and Faujdari Adalats were to be abolished and their jurisdictions transferred to the newly constituted High Courts. Each of these new Courts was to consist of a Chief Justice, and not more than fifteen judges; of whom "not less than one-third.....including the Chief Justice, shall be Barristers, and not less than one-third shall be members of the Covenanted Civil Service."[1] Persons who had held certain judicial posts for not less than five years and pleaders of not less than ten years standing were also eligible for judgeships of the High Courts. The judges were to hold office "during Her Majesty's Pleasure."[2] The jurisdiction of the High Courts was to be defined by Letters Patent establishing them. However, the Act conferred on them besides the jurisdiction of the abolished courts the power of superintending over all courts subject to their appellate jurisdiction, of calling for returns from them, of directing the transference of suits from one court to another, and of issuing "general rules for regulating the practice and proceedings of each Court,"[3] etc. The Act finally empowered Her Majesty to create and establish a Court of Judicature of the same type as for the three Presidencies, "in and for any portion of the territories within Her Majesty's Dominions in India, not included within the limits of local jurisdiction of another High Court."[4] This power was utilised in 1866 to create a High Court for the North Western Provinces at Allahabad.

The Indian High Courts Act of 1865 empowered "the Governor-General of India in Council to transfer any territory or place, from the jurisdiction of one to the jurisdiction of any other"[5] High Court. The Act of 1865 also gave power to the Governor-General-in-Council to enable the High Courts to exercise their jurisdiction over Christian subjects of Her Majesty resident in Indian States.

VI

In the year 1861 another Act was also passed which brought to an end the separate existence of the European Army of the East Indian Company. The members were asked to join the regular army

1. Clause 2nd of the Act, Mukherjee : Indian Constitutional Documents, Vol. I, p. 391.
2. Clause 4th of the Act, *Ibid.*, p. 391.
3. Clause 15 of the Act. *Ibid.*, pp. 394-5.
4. Clause 16 of the Act. *Ibid.*, p. 395.
5. Clause 3 of the Act. *Ibid.*, p. 412.

or to get their discharge. This, however, did not mean any decrease in the strength of the British troops in India. On the other hand, the reorganisation of the army after the rising of 1857 led to a large increase in their strength.

At the time of the Indian Rising of 1857 the Army in India consisted of under 40,000 Europeans and 215,000 Indians. Besides the Royal troops which numbered altogether 24, 263[1] there were some 15,000 British troops in the Company's Indian Forces. The Company's troops consisted of three separate forces in the three Presidencies of Bombay, Bengal and Madras, recruited independently on different principles. Besides the regular troops of the Company there were irregular[2] and local troops raised in the various parts of the country.[3] "Further, besides the Company's troops of all kinds, regular, and irregular, and local, a considerable supplementary native force had gradually arisen, which was practically at the disposal of the British Government, in the various contingents of the native states.. ... The aggregate strength of these contingents was about 35,000 men."[4]

Before the Rising of 1857 each Presidency had its own independent military establishment. Each Presidency Army was separate and had its own separate organisation, though the liability to serve in another Presidency in time of war was definitely recognised. There are instances of such service from the earliest times. There were, however, difficulties in the way of co-operation among the Presidency Armies as they were recruited on different principles. "The Bengal army consisted of class battalions composed of men of high caste; the units of the Madras and Bombay armies were of mixed classes of men of lower caste."[5] In some Presidencies accommodation was provided for families of men, in others not. The men in the army of one Presidency therefore resented service in another and the attempt to do so led several times to insubordinate conduct, sometimes amounting even to a mutiny.[6] On the whole, however, the relations between Indians and the British in the army were very friendly. The British officers had implicit faith in their men and there was no distrust of Indians. "The greater part of the artillery in India was manned by native soldiers."

All this, however, was changed after 1857. A Royal Commission, known at the Peel Commission, was appointed in 1858 which submitted its report in 1859. The army was reorganised in

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1. See Appendix I. The Army in India and its Evolution, (Government Publication), p. 195.

2. Among the irregular troops the most important "was raised in the Punjab from Sikhs, Pathans and other warlike races." Strachey : India—Its Adminstration and Progress, p. 477.

3. Chesney : Indian Polity, pp. 285-86.

4. *Ibid.*, p. 286.

5. The Army in India and its Evolution, p. 15.

6. *Ibid.*, p. 17.

7. Strachey : India—Its Administration and Progress, p. 477.

1861 in accordance with the recommendations of the Peel Commission.

The organisation of 1861 was based on three important principles. The first two are stated by the Report of the Commission on Indian Army Reorganisation, 1879, thus : "The lessons taught by the Mutiny have led to the maintenance of two great principles, of retaining in the country an irresistible force of British troops, and of keeping the artillery in the hands of Europeans."[1] And the third principle, still more sinister in its effects, was stated by the Report of the Punjab Committee on Army Organisation, 1858, in the following words :—"Next to the great counterpoise of a sufficient European force, comes the counterpoise of natives against natives..... To preserve that distinctiveness which is valuable, and which while it lasts makes the Mohammedan of one country fear or dislike the Mohammedan of another, corps should in future be provincial, and adhere to the geographical limits within which differences and rivalries are strongly marked."[2]

Consequently the provincial system of army organisation was maintained and the control over the army was not unified.

Secondly, the strength of the Indian Army was considerably reduced. "Some cavalry and infantry units were disbanded, others were amalgamated, and all the Indian artillery, with some notable exceptions, was abolished."[3]

Thirdly, a distinction between "martial" and "non-martial" races was created and recruitment to the army was confined very largely to the so-called martial races of Northern India.

Fourthly, the majorities of corps in Bengal and Punjab were reconstituted on the "class company" basis "that is to say, the regiments draw recruits from three or four different races and recruiting grounds, but the men of each class or race are kept apart in separate companies."[4] This was done in consequence of the policy of "counterpoise of natives against natives." The Madras and Bombay armies were still locally recruited on the "mixed" system, though in the Bombay regiments "an admixture of Sikhs and Hindustanis from Northern India"[5] was added.

Fifthly, the strength of European troops was greatly increased. "It was decided that the proportion of native and European troops in India should never greatly exceed two to one, and that the field and other artillery should be exclusively manned by Europeans."[6] The maximum number of British troops in India was fixed at 80,000. In 1879 the actual number was 65,000 while those of Indian troops

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1. *Ibid.*, p. 478 and Garratt : An Indian Commentary, pp. 201-202.
2. Quoted in Garratt : An Indian Commentary, p. 202.
3. The Army in India and its Evolution, p. 18.
4. Report of the Commission on Indian Army Reorganisation, 1879, quoted by Strachey : India—Its Administration and Progress, p. 480.
5. *Ibid.*, p. 480.
6. *Ibid.*, p. 478.

135,000.[1] "All the fortresses in the country.....(were)..... served by British artillery. All the heavy batteries and all the batteries of field artillery.....(were) manned by Europeans."[2]

Lastly, in order to remedy the two defects of the older system of regimental cadres of officers *i.e.*, inability to bear the strain of the absence of officers on extra regimental duty and disparity in the rate of promotion in different regiments, three staff corps were organised. All military officers whether serving on the staff of the army or of units, or in military deparments, or in civil employ were placed on the Staff Corps of each presidency.

The Army Reorganisation 1861 was completed by 1863. A few years after it was found that the new system also was not free from defects. The Afgan War of 1878-80 made it necessary to re-examine the position. Consequently another Commission[3] was appointed in 1879 "to explore the avenues by which military expenditure might be decreased, and to recommend measures to improve the efficiency of the army in India for war."[4]

"The immediate result of the Commission's recommendation was the addition of a British officer to Indian cavalry and infantry regiments, and the reduction of the strength of the Indian armies by 4 cavalry regiments and 18 infantry regiments. At the same time the strength of each cavalry regiment was increased from 499 to 550 of all ranks, and of each infantry (single battalion) regiment from 712 to 832."[4]

However, the most important recommendation of the Eden Commission was virtually to abolish the Presidency Armies which was not carried out till 1895. The changes that were gradually made to unify army control and organisation in India will be dealt with in a later Chapter.[5]

To return to the changes made in consequence of the transference of power from the Company to the Crown : In 1858, the naval force of the Company was also transferred to the Crown, instead of amalgamating it with the Royal Navy, it was disbanded in 1863. It was decided that the naval defence of India should be undertaken by the Royal Navy. Throughout the period of British rule India continued to depend for her naval defence on the Imperial Navy and was making a contribution of £100,000 a year towards the cost of maintenance of the Imperial Navy. A Royal Indian Marine was constitued after the first World War but its duties were mainly those of transport of troops, port supervision and marine survey.

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1. The Indian Army and its Evolution, p. 21.
2. *Ibid.*, p. 19.
3. The Commission of Indian Army Reorganisation. 1879, popularly known as the Eden Commission.
4. The Army in India and its Evolution, p. 21.
5. See Chapter XIII *infra*.

6

CHANGES : ADMINISTRATIVE AND POLITICAL

I

The legislation of 1861 was of basic importance. It provided India with a complete frame-work of government which lasted right up to the end of British rule in India, although many changes were made, both in the theory and structure of government, by later statutes.

The first change[1] in the structure of government was made by the Government of India Act, 1869, which empowered the Secretary of State for India to fill the vacancies as they arose in the India Council and also changed the tenure of membership of the Council from "good behaviour" to a term of ten years.

In 1870 another Act was passed known as the Indian Councils Act, 1870. In the first place it empowered the Governor-General in Council to pass regulations in certain cases, without the necessity of placing them before the Legislative Council. If Section I of the Act was made applicable to any province or area, the Executive authority of that area was empowered to submit to the Governor-General-in-Council draft regulations together with the reasons for proposing them—and, if they were approved by the Governor-General-in-Council and assented to by the Governor-General, they could be promulgated, without being submitted or passed by the Legislative Council, by publication in both the local and the Central Gazettes.

Secondly, the Act of 1870, made provision for the co-option, as an additional member, of the Lieutenant-Governor or the Chief Commissioner of the territory in which a meeting of the Central Legislative Council was held.

Thirdly, the Act of 1870, gave to the Governor-General the power to "suspend or reject.....or adopt and carry into execution" against the opinion of the majority of his Council, measure,

1. The legislative jurisdiction of the Governor-General-in-Council was extended first to British subjects in Indian States by an Act of 1865 and later to all Indian subjects of Her Majesty, whether living in India or abroad through the Indian Councils Act, 1869.

which in his opinion, affects "the safety, tranquillity, or interests of the British possesions, in India or any part thereof," but any two members of the dissentient majority could require that the facts of the case, together with any minutes which the dissentient members might have recorded, be sent to the Secretary of State.

Lastly, the Act enabled the Governor-General to appoint Indians to places in the Civil Service without requiring them to pass competitive examination in England. As has already been mentioned above the passing of the Indian Civil Service Act of 1861 and the regulations framed for the In tian Civil Service Examination in 1860 and 1866 and the social and religious conditions prevalent in India had practically closed all higher appointments above the rank of an Assistant Collector to the peoples of the land. To allay discontent Lord Lawrence had established nine foreign scholarships of the value of £200 a year each, tenable for three years, to encourage Indian students to go to England for study with a view to enter "the Civil or other Services in India" among other things. But the arrangement was not approved by the Duke of Argyll, the then Secretary of State for India, and the scholarships were consequently abolished. But the Government felt it necessary to provide, as the Act of 1870 put it, "additional facilities .... for the employment of natives of India of proved merit and ability in the Civil Service."[1] The Government of India was asked to frame rules to give effect to the provisions contained in Clause 6 of the Act.

II

The Government of India did not like the provision made by the Act of 1870 and delayed till 1873 the making of regulations, in spite of repeated reminders by the Secretary of State. And when the regulations were after all ready and received in England, they were found by the Law Officers of the Crown, "to be clearly opposed to the spirit and intention of the Act,"[2] and "to place too narrow a construction upon the statute."[3] New rules were made in 1875 by Lord Northbrook's Government, which however, remained inoperative, except for one or two appointments to the judicial branch of the Service.[4] In 1879, the Government of India proposed to close the Covenanted Civil Service altogether to Indians in a despatch which is characterised as "disgraceful" by Mr. Ramsay Macdonald. In a confidential forwarding note the Viceroy (Lord Lytton) indulged in some plain speaking. He confessed "that both the Government of England and of India appear .. .. ..unable to answer satisfactorily the charge of having taken every means in their power of

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1. Clause 6th of the Act : Mukherjee : Indian Constitutional Documents, Vol. I, p. 235.

2. C. L. Anand : History of the Government in India, Part II, p. 255.

3. Quoted by Ramsay Macdonald in his Government of India, p. 103.

4. Decennial Report on Moral and Material Progress, 1892. Extracts given by Chablani and Joshi : Readings in Indian Constitution and Administration, p. 361.

breaking to the heart the words of promise they had uttered to the ear."[1] He continued, "Under the terms of the Act, which are studied and laid to heart by that increasing class of educated natives, whose development the Government encourages without being able to satisfy aspirations of its existing members, every such native if once admitted to government employment in posts previously reserved to the Covenanted Service, is entitled to expect and claim appointment in the fair course of promotion to the higher posts in that service. We all know that these claims and expectations never can and will be fulfilled. We have to choose between prohibiting them and cheating them, and we have chosen the least straightforward course. The application to natives of the competitive examination system as conducted in England and the recent reduction in age at which candidates can compete, are all so many deliberate and transparent subterfuges for stultifying the Act and reducing it to a dead letter."[2] Lord Lytton consequently proposed to close the Covenanted Civil Service to Indians and to create 'a close native service" to satisfy the provisions of the 1870 Act. However, "the despatch was rejected with something like contemptuous anger,"[3] and the Government of India was asked to frame new rules to carry out the intentions of the 1870 Act. In 1879 rules were framed by the Government, according to which the statutory section of the Civil Service was built up.

The rules of 1879 empowered the Governor-General-in-Council to appoint, from among the persons recommended by the provincial governments, a certain number of Indians "of good family and social standing" every year, provided that the number did not exceed one-fifth of the appointments made by the Secretary of State in the year. The proportion was reduced to one-sixth by the authorities in England and at the same time, to prevent Indians from getting in through competition, the maximum age for the Indian Civil Service examination was reduced to 19 years.

These rules were not worked properly and men without adequate educational qualifications or general ability were appointed on the plea that they belonged to families of good social standing.[4] The system was opposed by Indians from the very beginning, who desired equal opportunities of competing for the Indian Civil Service. A strong agitation was set up in the country as a result of which Lord Dufferin's Government appointed a Public Service Commission in 1886 to examine the whole question. The Commission was presided over by Sir Charles Aitchison and consisted of 15 members, of whom

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1. Quoted in Ramsay Macdonald : Government of India, p. 104.

2. Quoted by C. L. Anand in History of Government in India, Part II, p. 255.

3. Ramsay Macdonald : Government of India, p. 104.

4. For arguments in favour of giving posts to men of social standing see the extract from the Decennial Report. Chablani and Joshi : Readings in Indian Constitution and Administration, p. 362.

5 were Indians. The Report was submitted to the Government of India in December 1887.

The Commission reported against the holding of simultaneous examination in England and India.[1] The arguments advanced were curious and mischievous in their suggestiveness. The Commission doubted whether the successful Indian candidates "would possess in a sufficient degree the qualities essential for high administrative office."[2] It held that "competition in India.....would operate with inequality excluding altogether some important classes of the community, while giving undue advantage to others. It was further pointed out that owing to the failure of the vast majority to obtain posts, as the number of vacancies to be filled each year was very small, there would be created "a large disappointed and thereby probably discontented class which would cause embarrassment to the Government."[2] And lastly the Commission emphasised "the importance of recruiting that service (which represented the only permanent English official element in India)—with reference to the maintenance of English principles and methods of government."[2] The reason was stated with greater frankness by Sir John Strachey : "Let there be no hypocracy about our intention to keep in the hands of our own people those executive posts—and there are not many of them—on which, and on our political and military power, our actual hold of the country depends."[3]

The Commission was expressly appointed to recommend a scheme which would "do full justice to the claims of natives of India to higher and more extensive employment" in the Public Services. On the recommendation of the Commission, the designation "Covenanted Civil Service" was abolished and all the Public Services were divided into three grades, the Imperial, Provincial and subordinate. All the important superior posts were put in the first group and recruitment to them was placed under the Secretary of State in Council. From most of these Indians were excluded either by a racial bar[4] or by practical difficulties put in their way by rules and regulations.[5] As far as the Indian Civil Service was concerned, the maximum age was raised to 23 years, so as to enable some Indian students to compete in England. The other two classes were ordinarily recruited from the people of the land or those domiciled in India by the Provincial Governments. The Statutory Civil Service was abolished and in its place certain posts—61 in all for the whole

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1. Three Indian members of the Commission recorded their dissent.

2. Report of the Public Service Commission, 1886, p. 49.

3. Strachey : India : Its Administration and Progress, p. 547.

4. To the Police examination no one was admitted except British subjects of European descent.

5. Appointments in the P. W. D. Forest Service, etc. were filled either by Royal Engineers or by graduates of the Cooper's Hill College, whose cost was borne by India, but to which admission was given to British subjects of European descent. Pure Indians found it very difficult to gain admission and the number of Indians selected in any case was not to exceed a small percentage.

of India—held by the superior service were listed and they were made available to the members of the Provincial Service by promotion. Thus the provisions of the 1870 Act were ultimatly satisfied by the system of "listed posts."[2] It must, however, be remembered that men holding these "listed posts" did not enter the superior service, and were paid only two thirds of the salaries given to Europeans holding the same posts.

III

The constitution of both the Governor-General's and the Secretary of State's Council was slightly changed by legislation passed in the seventies of the 19th century. The Indian Councils Act, 1874, empowered Her Majesty to appoint a sixth ordinary member of the Viceroy's Council, who shall be called the member of the Council for Public Works Purposes."[1] Her Majesty was also given power to reduce the number again to five, whenever it was felt necessary, by not filling a vacancy caused by the retirement of any ordinary member except the Law Member.

The Indian Councils Act, 1876, empowered the Secretary of State to appoint persons, not more than three at a time, having professional and other peculiar qualifications, members of the India Council, "during good behaviour" in spite of the passing of the Act of 1869 prescribing ten years as term of membership, if it was considered necessary to do so for special reasons which were to be stated in a minute and laid before both the Houses of Parliament.

Ilbert believes that this Act was passed with special reference to the appointment of Sir Henry S. Maine to the India Council.

In 1889, the Council of India Reduction Act was passed which authorised the Secretary of State to refrain from filling in vacancies in the Council of India until the number was reduced to ten.

IV

In 1876 was passed the Royal Titles Act to make good the omission of 1858—as the transfer of the Government of India from the Company to the Crown had not been recognised by any change in the title or status of the Queen. "Embarrassment inseparable from the want of such appropriate title had long been experienced with increasing force by successive Indian administrators, and brought, as it were, to a crisis by various circumstances incidental to the Prince of Wales' visit to India in 1875-76."[2] A suggestion was, therefore, made by the Government of Lord Northbrook that it was time that the Queen assumed an appropriate new title. This made a strong appeal to the pomp-loving, imperialist Disræli, who was then Prime Minister in England—and the Royal Titles Act,

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1. Clause I of the Act. Mukherjee : Indian Constitutional Documents, Vol. I, p. 191.

2. Lady Betty Balfour : Lord Lytton's Indian Administration. See p. XXVIII of Mukherjee Introduction to Indian Constitutional Documents, Vol. I.

1876, was passed. By this Act, the full title of Her Majesty became "Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen Defender of the Faith and Empress of India."[1]

One effect of the passing of the Royal Titles Act, 1876, was to bring the Indian States inside the boundary of the Indian Empire and to change the legal position of the Indian Rulers from Allies of the Paramount Power to subordinate Princes within the Empire. No longer were the principles of international law—which had been officially recognised and embodied in state documents—applicable to the case of Indian States. "The Supreme Government no longer felt any scruple about interfering in the internal affairs of a Protected State for adequate reason, or even in changing the ruler, if such a drastic course should be necessary."[2]

V

During the period 1861-1892, the last annexation of territory took place to the British Empire in India. "Nothing more remained to be taken," as observed by Vincent Smith. Two major wars were fought, both with the intention of warding off foreign influence—that of Russia in the case of Afghanistan and that of France in that of Burma.

Since the Rising of 1857, the Government of India had followed the policy of "masterly inactivity," which had resulted in the increase of Russian influence in Afghanistan to counteract which Lord Lytton was sent as the Governor-General. He prepared the ground by taking possession of Quetta, an outpost in Kalat of great strategical importance. War was declared on Afghanistan and the campaign opened in November 1878, which was short and brilliant. It was concluded with the Treaty of Gandamak, on May 26th, 1879, which assigned the district of Pishin to the British and placed Afghan relations under British control. However, this settlement lasted only a few months. On September 3rd, 1879, the English envoy was massacred at Kabul and a costly and difficult war had to be undertaken. Ultimately, a settlement was made by Lord Ripon with Amir Abdur Rahman which proved more lasting and which secured British control over Afghanistan and also retained Pishin for the Indian Government.

The Third Burmese war was fought to ward off the French influence from Indo-China. It lasted only a fortnight—ending on 25th November, 1886, in the annexation of Upper Burma and the deportation of King Thibaw.

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1. Empress of India was translated as Kaiser-i-Hind because it was sonorous, expressive of the Imperial character, and a title of classical antiquity.

2. "The priniciples of international law" declared a Resolution of the Government of India in 1891. (Gazette of India, No. 1700E, August, 21, 1891)" have no bearing upon the relations between the Government of India as representing the Queen Empress on the one hand and the Native States under the sovereignty of Her Majesty, on the other. The Paramount Supremacy of the former presupposes and implies the subordination of the latter." See Smith: Oxford History of India, pp. 739-40.

7

CONSTITUTIONAL DEVELOPMENT

(1861-1892)

I

A number of events of constitutional importance took place in India during 1861-1892. Personal relations were established between the Royal House and the Princes and the people of India. In 1869 H.R.H. the Duke of Edinburgh—the 2nd son of Queen Victoria—paid a visit to India, and, in 1875-76, the then Prince of Wales, later King Edward VII, toured through the whole country, receiving an enthusiastic and cordial welcome from the people. It was during this period that serious differences arose between the Government of India and the Home Government which led to the resignation of the Viceroy. The other important events of this period were : the enactment and repeal of the Vernacular Press Act, 1878 ; the passing of the Indian Arms Act, 1878 ; the abolition of cotton duties leading to the undermining of faith in the justice and sense of fairplay of the British ; the evolution of the policy of financial devolution and development of local self-government in the country ; the raging of a fierce controversy over the "Ilbert Bill" ; and the foundation of the Indian National Congress and the national movement in the country.

II

The constitutional position of the Governor-General *vis-a-vis* the Secretary of State was clearly defined in the Act of 1858. As stated in the Dispatch of the Secretary of State of 1871, "the final control and direction of the affairs of India rested with the Home Government."[1] The high dignity of "those who are called upon to administer its affairs on the spot (India), in no degree exempt them from the necessary tie of subordination."[2] However, till 1870, the position in actual practice was very different. The man on the spot enjoyed a great deal of latitude and liberty. Difficulties and delays of communications prevented the Secretary of State from exercising

1. Quoted in the Report on Indian Constitutional Reforms, 1918, p. 22.
2. *Ibid.*, p. 23.

real control ; and enabled the Viceroys to present the Home authorities often with accomplished facts. As a matter of fact officials in India came to regard the Secretary of State "as the exponent of the Viceroy's measures to the English Parliament and the people."[1] But the whole position was changed[2] by the completion of a direct telegraphic line by submarine cable, by way of the Red Sea, between England and India, in 1870. Henceforward it became possible for the Secretary of State to exercise full control over the Government of India...and from 1870 India office exercised control in all matters...executive and legislative—and both on questions of principle and detail. The stricter control led to increased opportunities of conflict[3] and the situation occasionally became so serious that it led to viceregal resignations—as it did in 1876 in the case of Lord Northbrook.

III

The question over which acute differences developed between the Home Government and the Government of Lord Northbook was that of the abolition of cotton duties. And it is painful to record that nothing else has so clearly demonstrated to Indians the hollowness and insincerity of British professions of justice and disinterested service as the controversy over the cotton duties, in which case, Indian interests were shamelessly[4] and deliberately sacrificed to those of Lancashire.

Alarmed by the growth of the Indian Cotton Industry the Manchester Chamber of Commerce had addressed a memorial in January 1879 to the Secretary of State for India protesting against the existing import duties in India of 3¼ per cent on yarn and 5% on cotton cloth and alleging that "a protected trade was springing up in British India to the disadvantage of both India and Great Britain"[5] and asking for the abolition of the duties. The Government of India, on the recommendation of a special committee decided to lower the scale of valuation and the general rate of import duties and also expressed its willingness to impose an import duty of 5% on long staple cotton but declined to abolish the cotton duty because it could not "practically operate as a protection to native manu-

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1. Sir Bartle Frere quoted by Dodwell : History of India, 1858-1918, p. 34.

2. The change made was so great that it made Lord Ripon write : 'I am not sure that if I had known exactly how matters stood I should have come out here." *Ibid.*, p. 36.

3. Particularly if the Viceroy happened to belong to a different party than the Secretary of State as was the case with Lord Northbrook.

4. Sir John Strachey openly declared in the Legislative Council in 1877 :— "The interests of Manchaster, at which some foolish people sneer, are the interests of not only of the great and intelligent population engaged directly in the trade in cotton, but of millions of English men ; I am not ashamed to say that.....there is no higher duty in my estimation than that I owe to my own country." Bannerjee : Fiscal Policy in India, pp. 75-6.

5. Report of Indian Fiscal Commission, 1922, p. 88.

facture."[1] Several dispatches passed between the Secretary of State and the Government of India, both sticking to their positions. The Home Government alleging that the cotton duties offered "a false encouragement to the Indian manufacturer" and "were of serious import both to Indian and Imperial interests ;"[2] and the Government of India submitting, with facts and figures in their support,[3] that the duties were not of protective nature, that it could not sacrifice such a large revenue and that "it is our duty to consider the subject with regard to the interests of India.....that the removal of the import duty on cotton manufactures is.....(not).....consistent with those interests."[4] And as Lord Northbrook was not prepared to sacrifice Indian interests he had to resign and give place to Lord Lytton, who with the help of his Finance Member, Sir John Strachey, carried out the behests of the British Government and Parliament, *i.e.*, to repeal "without delay"... .."the duties now levied upon cotton manufactures".....as soon as the financial condition of India will permit.....". The Viceroy had to over-rule the majority[5] of his Council in order to do so. It was held by Sir Erskine Parry that Viceroy's action "was unconstitutional and a dangerous precedent"[6] as under Section 41 of the Government of India Act, the Viceroy could only over-rule his Council, if, in his opinion, "the safety, tranquillity or interests of British India, or of any part thereof, are or may be essentially affected."

The Viceroy's action was strongly resented by public opinion in India. "A large and influential meeting was held at Bombay on 3rd May, 1879, at which a petition to be submitted to the House of Commons was adopted."[7] But the Secretary of State approved the action, although his Council was equally divided, seven voting for and seven against,[8] and the House of Commons passed a resolution accepting the steps already taken and urging the total abolition of the duties, which was done in 1882.

IV

In 1857, the Licensing Act requiring every printing press to obtain a license, which could be revoked at any time, if granted,

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1. Bannerjee : Fiscal Policy in India, p. 90.
2. *Ibid.*, p. 72.
3. *Ibid.*, p. 68.
4. Report of the Indian Fiscal Commission, 1922, p. 96.
5. The notes of dissent written by four members of the Council are worthy of serious study.
6. Quoted by Bannerjee : Fiscal Policy in India, p. 84.
7. Mody : Sir Pherozeshah Mehta. Vol. 1, p. 105. The European Chambers of Commerce in India also strongly condemned the action of the Viceroy. For instance, the Bengal Chamber of Commerce wrote to the Governor-General expressing regret at the state of affairs when the interests of a small section of the people in England had more influence "than the interests and expressed wish of the people under the Government of Your Excellency". Bannerjee : Fiscal Policy in India, p. 83.
8. Indian Fiscal Commission, Report, 1922, p. 92.

was passed for a period of one year only. Applications for licenses were to be made to the Governor-General-in-Council, which may grant licenses on any conditions or refuse them without assigning any reasons. "Observations impugning the motives or designs of the British Government.....or in any way tending to bring it into contempt, weaken its authority or that of its servants, civil or military", were not to be published. In 1867 the provisions of Act XI of 1835 were re-enacted. But, in 1870, the well-known Section 124A was inserted in the Indian Penal Code, which provided that "whoever, by words either spoken or intended to be read, or by signs or by visible representation, or otherwise excites or attempts to excite feelings of disaffection towards Her Majesty or the Government established by law in British India shall be punished with transportation for life or any shorter term, to which a fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine."[1]

There was rapid growth of the Press in India after 1858. By 1860 the number of newspapers had risen to 644, out of which more than 400 were in the vernacular, mostly written in Bengali. The policy followed by Lord Lytton since his arrival in India had antagonised the people and the terrible sufferings caused by the Famine of 1877 had made the people very restive.[2] There was strong agitation in the Press which unnerved the Government and made it embark on a policy of repression. The result was the passing of the Vernacular Press Act, 1878, and the Indian Arms Act of the same year.

On March 13th, 1878, the Viceroy sent a telegram to the Secretary of State for India requesting consent by telegram to a Press Law on the lines of the Irish Coercion Act, 1870, and outlining its provisions, in view of "the increasing violence of the Native Press, now directly provocative of rebellion", and the urgency of the situation. The sanction was received the next day. The Bill was introduced the same day and was passed into law within a couple of hours.

The Vernacular Press Act, 1878, more popularly known as "the Gagging Act", empowered a magistrate—with the previous sanction of the Provincial Government—to require a printer or publisher to deposit security or enter into a bond binding himself not to print or publish anything likely to incite feelings of disaffection towards the Government or hatred between the different races. The Government was given the power to warn and to confiscate the plant, deposit, etc., in the event of the publication of undesirable matter. The printer was offered the alternative of submitting proofs to the official censor and dropping all rejected matter and thus escape from the operation of the Act.

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1. Ranchhodas and Thakore : The Indian Penal Code, p. 110.
2. See Wedderburn : Allan Octavian Hume, pp. 79-81.

The Vernacular Press Act, 1878, was even more stringent than the Irish Coercion Act, 1870, in that no appeal was allowed to any judicial authority against the decision of the magistrate. It was, as pointed out by Sir Erskine Perry in his minute of dissent recorded in the proceedings of the India Council, "a retrograde and ill-conceived measure, injurious to the future progress of India". "No imperial legislator could forge a more powerful weapon for extripating an obnoxious press."[1]

The Gagging Act aroused a storm of opposition in Indian educated circles, especially in Bengal, where it was more strictly enforced. A monster meeting was held in Calcutta Town Hall, attended by 5,000 persons, to protest against the measure and to appeal to the House of Commons for its repeal. The agitation was continued both in India and in England—till the change of ministry in England and the appointment of Lord Ripon as the Viceroy of India.

Lord Ripon was anxious to repeal the Act but it took him some time to overcome the official opposition both inside and outside the Council which reminded him "of the arguments of the French conservatives of the times of Louis XVIII and Charles X,"[2] and it was not until 1882 that the Gagging Act was actually repealed.

There is truth in the remark of professor Dodwell that this action of Lord Ripon was "far in advance of the rest"[3], because, as was pointed out by Munro long before, "a free press and the dominion of strangers are things which are incompatible and cannot long exist together."[4]

V

The second repressive Act of the year was the Indian Arms Act, 1878. It made it a criminal offence to keep, bear or traffic in arms without licence by Indians. Heavy penalties were prescribed to enforce the provisions of the Act,[5] and by the rules made under the Act the Europeans and other white persons and the Eurasians along with certain government officers and other dignatories were exempted from the operation of the Act.[6] Power was given to the

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1. Mody : Sir Pherozeshah Mehta, Vol. II, p. 96-7.
2. Lucien Wolf : Life of Lord Ripon, Vol. II, p. 111.
3. *Ibid.*, p. 114.
4. Dodwell : History of British India, 1858-1918, pp. 252-3.
5. The ordinary punishment for not complying with the provisions of the Act was "imprisonment for a term which may extend to three years, or with fine, or with both," "but it could be increased in cases of concealment or attempts at concealment to a term which may extend to seven years or with fine or both". Section 10 of the Act. See pp. 47 and 67-68 of F. C. Widge : Indian Arms Act XI, 1878.
6. See Schedule I of the Rules, item 13, *Ibid.*, p. 170

commissioners of police in the Presidency towns and Rangoon and to the district magistrates elsewhere in British India to grant licenses for a fixed period and on payment of fees prescribed for the purpose for which the licence was granted after making full enquiries regarding the antecedents of the applicants from authorised persons.[1] The working of this rule in a very strict and narrow spirit and the discrimination between full-blooded Indians and others made the measure particularly obnoxious and galling to Indians.

VI

The liberal and popular viceroyalty of Lord Ripon was marred by the fierce and bitter racial controversy over what is known as the "Ilbert Bill". The Bill was intended to remove an invidious distinction that existed between the Indian and European members of the Covenanted Civil Service. Under the then existing law Europeans outside the Presidency towns could only be tried by European magistrates or judges ; and not by any Indian magistrate or judge, although he may be superior in rank to the European members of the Service in a particular district. As was pointed out by Mr. R.C. Dutt, such discrimination was bound to weaken the authority of Indian officers. It was recognised by Sir Ashley-Eden, the Lieutenant-Governor of Bengal, that "there seems to be no sufficient reason why covenanted native civilians, with the position and training of a District Magistrate or a Sessions Judge, should not exercise the jurisdiction over Europeans as is exercised by other members of the services."[2] Lord Ripon's Government, therefore, decided to remove this petty, racial discrimination and a Bill to this effect was drafted, sent to England for approval and was ultimately introduced in the Legislative Council on February 2nd, 1883.

A huge uproar was raised by Europeans everywhere in the country, and especially in Bengal. "The merchants of Calcutta, who were not personally interested, were as violent as the planters of Behar. Ripon's entertainments were boycotted[3].....He himself was insulted.....The attitude assumed was disagreeably reminiscent of the colonial spirit of the West Indian Assembly desiring to accord legal privileges to their slaves or South Africans discussing missionary teaching among the natives."[4]

A Defence Association was formed and over a lakh and-a-quarter rupees[5] were collected and a monster indignation meeting was held by the Anglo-Indians in the Calcutta Town Hall "at which

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1. See Rule No. 30, *Ibid*, p. 151.
2. Quoted in J.N. Gupta : The Life and Works of Romesh Chandra Dutt, p. 94.
3. For graphic details see Mody : Sir Pherozeshah Mehta, Vol. II, p. 125-8 and Lucien Wolf : Life of Lord Ripon, Vol. II, pp. 128-50.
4. Dodwell : History of India, 1858-1918, p. 261.
5. Bannerjee : A Nation in Making, p. 85.

the speeches were of an intemperance beyond all limits of decency". Similar meetings were held all over the Presidency, and the Anglo-Indian Press, notably the *Englishman*,... became utterly hysterical." "Among other features of their campaign, the volunteers were openly incited to resign in a mass, and certain persons even 'sounded opinions in the Canteens'—in other words, attempted to seduce the Army."[1]

It is difficult to understand the feelings aroused by the measure which was, as Lord Ripon himself put it, "required by administrative convenience" and though "just in itself" was not of sufficient importance or urgency".[2] "If I had known what would happen I should not have let myself in for this storm."[3] Lord Ripon had consulted experienced officials and it appears that no one except Sir Henry Maine[4] had anticipated the least bit of trouble.

Lord Ripon had investigated the causes and had come to the conclusion : "The Bar have been very sore about the reduction of judges' pay and Mitter's appointment as Acting Chief Justice, and were only too glad of an opportunity to do the Government an injury if they could ; and the idea of an opposition to the Bill was started in the Bar Library by some of the English barristers."[5] The Calcutta capitalists were afraid, according to Mr. Lambert, the Head of the C. I. D. at that time, that their white agents in the tea gardens "would not get proper justice in the criminal courts" presided over by 'native' judges. The Eurasians were sore about the Roorki Bill, which confined admittance to the Engineering College to Asiatics of pure blood. Then to make their grievance a general one they raised the cry of danger to European women."[6]

The Bill, as originally introduced, empowered all District

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1. Lucien Wolf : Life of Lord Ripon, Vol. II, p. 128.
2. *Ibid.*, p. 136.
3. *Ibid.*, p. 135.
4. He was then a member of the India Council and was in Paris at the time. He was consulted and had sent a minute on the measure, which, however, was not sent to India, as it was mislaid by the Secretary of State after he had read it in the meeting of his Council. Sir Henry Maine had written :—".....It is a question of sentiment, and there is a competition of sentiments. The natives feel or profess to feel humiliated by race distinction, affecting the powers of the judges. The Europeans are alarmed or affect to be alarmed, at the new power given to the natives of bringing race-hatred to bear on them. The great explosions of European feelings have generally had this class of questions for their pretext. One cannot be quite sure that the present moderate proposal may not provoke one and then the consideration will arise whether the game was worth the candle". *Ibid.*, pp. 3 9-81.
5. Lucien Wolf : Life of Lord Ripon, Vol. II, p. 130.
6. *Ibid.*, p. 131. This proved to be the most effective cry. It was put by Meredith Townsend to Tom Hugh in a letter in this manner :—"Would you like to live in a country where at any moment your wife should be liable to be sentenced on a false charge of slapping an Ayah to three days' imprisonment, the Magistrate being a copper-coloured pagan, who probably worships the Linga, and certainly exults in any opportunity of showing that he can insult white persons with impunity."

Magistrates and Sessions Judges to try Europeans. It also gave power to Local Governments, outside the Presidency towns, to confer such powers on all those who were exercising first class magisterial powers, irrespective of their race, if in their opinion, they were fit to be entrusted with such powers. In August 1883, Government of India obtained permission from the Secretary of State to modify the Bill by restricting the extended powers to only District Magistrates and Sessions Judges. However, even these modifications were not acceptable to the opposition. Ultimately, a compromise was arranged which came to be called "the Concordat" which was embodied in Act III of 1884. The Act gave to Indian District Magistrates and Sessions Judges the power of trying European subjects, on the condition that the European offenders should have the right of claiming, even in most trivial cases, trial by jury, of which at least half the number must be Europeans or Americans. The European Magistrates and Judges were also deprived of summary powers. However, the powers of the District Magistrates were extended to imprisonment for six months or fine up to two thousand rupees.

The Act of 1884 did not really remove either the racial discrimination—it changed it from the judges to the accused—or the administrative inconveniences. In several respects the position became worse. As remarked by Sir John Strachey, the Act gave Europeans in India a claim, "which could not be made by an Englishman in any magistrate's court in his own country".[1] It, moreover, created awkward situations. To quote Sir John again, "there are many districts in which it may happen .....that a sufficient number of Europeans and Americans cannot be found to constitute a jury ; the case must then be transferred to another district where a jury can be formed. Thus a possibility is afforded for the occasional revival of the old scandals and denials of justice and hardships which were common before 1872, when the trial of European British subjects could only take place before the High Courts, and complainants and witnesses were liable to be sent away to great distances from their homes."[2]

The Ilbert Bill controversy was a great eye-opener to Indians. They realised that justice was not to be expected where privileges and vested rights of Europeans were concerned and that they must be prepared for a long fight to establish their claim to equality. The affair also demonstrated the value of organised agitation to Indians. There were lessons well worth learning.

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1. Sir John Strachey : India—Its Administration and Progress, p. 111.
2. *Ibid.*, p. 112.

8

FINANCIAL DEVOLUTION AND LOCAL SELF-GOVERNMENT

I

Ever since 1833 all financial powers in India were concentrated in the hands of the Governor-General-in-Council. "The whole of the revenues from all the provinces.....were treated as belonging to a single fund, expenditure from which could be authorised by the Governor-General-in-Council alone".[1] The Provincial Governments had no powers of taxation or borrowing "save in respect of local cesses." The Provincial Governments had, therefore, no powers of either taxation or borrowing or of expenditure without the sanction of the Government of India.

The evils of such concentration in a vast and varied country were great. The Government of India had very little knowledge of either the local requirements or of the ways of developing the local sources. Moreover, the system engendered a spirit of hopeless rivalry in making demands on the Central Exchequer and offered no inducements whatsoever to economy of expenditure. As Sir Richard Strachey had put it :—"The distribution of the public income degenerated into something like a scramble, in which the most violent had the advantage, with very little attention to reason. As local economy brought no local advantage, the stimulus to avoid waste was reduced to a minimum, and as no local growth of the income led to local means of improvement the interest in developing the public revenues was also brought down to the lowest level."[2]

The evils of such a system had attracted the attention of several officials. General Dikens had suggested a reform as early as 1860. Mr. Laing, the Finance Member, had drawn attention to the subject in his budget statements of 1861-62 and 1862-63 ; and Sir Richard Strachey had drawn up a definite scheme of provincial finance in 1867, but the matter was not actually dealt with until the time of Lord Mayo. On the 14th December, 1870, Lord Mayo's

1. Strachey : India—Its Administration and Progress, p. 121.
2. The Report on Indian Constitutional Reforms, 1918, p. 69.

Government issued a Resolution on the subject, which introduced certain important modifications and inaugurated the policy of Financial Devolution, which was systematically developed since that time.

The Resolution of 1870 transferred to the control of the Provincial Governments the following heads of expenditure, with the revenue accruing from them, and in addition, a fixed annual Imperial grant for the purpose :—Jails, Registration, Police, Education, Medical Services, Printing, Roads, Miscellaneous Public Improvements and Civil Buildings. The deficit, if any, was to be met either by local taxation or by reduction of expenditure ; and any portion "that may be unspent at the end of the year will not lapse to the Imperial Revenues, but will remain at the disposal of the Local Government."[1] Provincial Governments were given power, subject to certain conditions, to create appointments, provided the salary in each case did not exceed Rs. 250 a month, and the amount could be met out of assigned grants.

Lord Mayo's Government expected that the new arrangement "will produce greater care and economy ; that it will impart an element of certainty into the fiscal system which has hitherto been absent ; and that it will lead to more harmony in action and feeling between the Supreme and Provincial Governments than has heretofore prevailed."[2] But this was not all. "The operation of this Resolution, in its full meaning and integrity, will afford opportunities for the development of self-government, for strengthening municipal institutions, and for the association of natives and Europeans to a greater extent than heretofore in the administration of affairs."[3]

The chief drawback of the new system was that Imperial assignments were made on the basis of expenditure in the various provinces in 1870-71 without making any attempt to overcome the existing inequalities and to apportion grants according to the real needs of the provinces. As stated by Dr. Gyan Chand, "the province which had a low level of expenditure owing either to economical administration or to difficulty of access to the Central Government or to its undeveloped or backward state due to recent annexation, was penalised for its economy, unassertiveness, or worse still, backwardness."[4]

Another defect of the 1871 arrangement was that no attempt was made to secure economy in the collection of revenue. "Thus, while, a direct interest had been given to them (Provincial Governments) in distributing their resources, well and in spending them economically, they had no such interest in the collection of the

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1. Para 18 of the Resolution, Mukherjee : Indian Constitutional Documents, Vol. I, p. 628.
2. Para 22 of the Resolution, *Ibid.*, p. 629.
3. Para 23 of the Resolution, *Ibid.*, p. 630.
4. Gyan Chand : The Financial System of India, p. 143.

revenues ; and, meanwhile the excise and stamp duties were notoriously evaded, and the government suffered, through collection of revenue." So, the Government of Lord Lytton by its scheme of 1877 attempted to interest the Provincial Govenments in the collection of revenue.

The scheme of 1877, which was drawn up by Sir John Strachey, the then Finance Member of the Viceroy's Council, transferred some more heads of expenditure—Land Revenue, Excise, Stamps, General Administration, Stationery, Law and Justice—to the control of the Provincial Governments. And for the discharge of the services newly imposed on them the Provincial Governments were given, not an increase in their permanent grants, but a share in the revenue realised under certain heads in their respective provinces. Revenues derived from excise, stamps, law and justice, collections from certain estates, and some miscellaneous items were assigned to the Provincial Governments "on the condition that the Supreme Government should take half of any surplus realised over the specified amount that these sources were estimated to yield, and should bear half of any deficit."[1]

The experiment of entrusting powers of financial control to Provincial Governments worked well and the Government of Lord Ripon, with Major Baring (later Lord Cromer) as Finance Member, decided to increase still further provincial responsibility in financial matters. This was done by the Resolution of September 30, 1881.

By the Settlement of 1882, the system of giving a fixed grant was abolished and the provincial governments were assigned certain sources of revenue and a share from certain other sources of revenue. The sources of revenue were divided into three classes :—Imperial, Provincial and Divided. The revenue from provincial heads was placed wholly at the disposal of the Provincial Governments, that from the divided heads was shared, mostly in equal portions, between the Provincial and the Imperial Governments ; and the revenue derived from imperial heads was to be utilised to meet central expenditure, with the exception that the deficiency in provincial income was to be made good by giving a fixed percentage on the land revenue, which was included among the imperial heads. The other imperial heads were : Customs, Posts and Telegraphs, Railways, Opium, Salt, Tributes, the Mint, Home Charges and Military Receipts. Receipts by Civil Departments and from Provincial Public Works were made wholly provincial ; and the rest including Excise, Stamps, Forests, and Registration were divided among the two. And, to put an end to uncertainty, the Resolution of 1882 introduced the system of quinquennial settlements. The Resolution also defined the financial relations of the Imperial and Provincial Governments in respect of extraordinary charges for war and famine. Except in very abnormal and disastrous circumstances no demand was to be made on Provincial Governments for war ; and

1. Mukherjee : Indian Constitutional Documents, Vol. I, p. LX.

early and timely help was promised to Provincial Governments to meet famine expenditure. The Provincial Governments were excused from accumulating any special reserve for famines in view of the annual allotment of £1,500,000 for Famine Relief and Insurance by the Government of India.

Thus the position of the Provincial Governments was considerably improved. In 1884 a minimum limit to the credit balance of each Provincial Government was prescribed by the Central Government to prevent excessive fluctuations in provincial finance. The system introduced in 1882 was renewed, without any modifications of the principles involved, in 1887 and again in 1892 and 1897. But these renewals brought to light serious defects in the system of quinquennial settlements. They were graphically depicted by the Lieutenant Governor of Bengal in his speech in the Supreme Legislative Council in 1896 :—"I must say I deprecate the way in which these quinquennial revisions have too frequently been carried out. The provincial sheep is summarily thrown on its back, close-clipped and shorn of its wool, and turned out to shiver till its fleece grows again. The normal history of a provincial contract is this—two years of screwing and saving and postponement of works, two years of resumed energy on a normal scale, and one year of dissipation of balances in the fear that if not spent they will be annexed by the Supreme Government, directly or indirectly, at the time of revision. Now all this is wrong, if not demoralising. I say the Supreme Government ought not to shear too closely each quinquennium.....It would be an immense gain to Local Administrations if the Government of India could see its way to renewing the contracts with as little change as practicable on each occasion. It is only in this that the element of fiscal certainty, which was put forward in 1870 as one of the main objects, can be secured."[1]

II

Closely connected with the policy of financial devolution was that of encouraging the development of local self-government. It was hoped by the authors of the Resolution of 1870 that financial devolution would "afford opportunities for the development of self-government, for strengthening municipal institutions" and for associating Indians and Europeans more and more with the work of government.

Municipal Government had existed in the presidency towns for a long time before 1870, but the first attempt to introduce municipal government outside the presidency towns was made in Bengal by Act X of 1842. Its object was to enable "the inhabitants of any place of public resort or residence to make better provision for purposes connected with public health and convenience."[2] Based

1. Quoted by G. K. Gokhale in his evidence before the Welby Commission of 1897, p. 11, Appendix I—Speeches of Gokhale.

2. Moral and Material Progress Report 1882, Chablani and Joshi : Readings in Indian Administration, p. 400.

upon the voluntary principle it could take effect in no place except on the application of two-thirds of the house-holders.....It was only introduced into one town, and there the inhabitants when called upon to pay the tax, not only refused, but prosecuted the Collector for trespass when he attempted to levy it".[1] The Act of 1842 was repealed in 1850 and Act XXVI of the same year was passed to found municipal institutions in the various provinces of India. As direct taxation had made the Act of 1842 very unpopular, the Act of 1850 allowed indirect taxation. This Act was also of a permissive nature :—"The Government of any Province was empowered to bring the Act into operation in any town only when satisfied that the application to that effect is in accordance with the wishes of the inhabitants.....The Government was then authorised to appoint the magistrate and such number of inhabitants as may appear necessary to be commissioners, on whom large powers [were] conferred for making rules. It is under this power that the levy of octroi duties, now so common, first became legal in India."[2] This Act was only availed of largely in the North-Western Provinces and Bombay. In 1863 the Royal Army Sanitary Commission submitted its report and as a result of its recommendations municipal Acts in the various provinces were passed—in 1864 in Bengal, in 1865 in Madras, in 1867 in the Punjab, in 1868 in the North Western Provinces. These Acts authorised the use of elections for constituting municipalities, but election was actually introduced only in the Punjab and the Central Provinces. The chief function entrusted to the newly constituted municipalities was the improvement of sanitation.

The Resolution on Provincial Finance, 1870, referred prominently to the necessity of taking steps to bring local interest, supervision and care to bear on the management of funds devoted to education, sanitation, medical charity and local public works. For this purpose new municipal Acts were passed for the various provinces between 1871 and 1874 which besides giving large powers, made provision for the extension of the elective principle, though it was only in the Central Provinces that popular representation was widely or successfully adopted. The results of the policy of 1870 were thus summarised in the Resolution on Local Self-Government, 1882—"Considerable progress.....had been.....made since 1870. A large income from local rates and ce:ses had been secured, and in some provinces the management of the income had been freely entrusted to local bodies. Municipalities had also increased in number and usefulness. But there was still a greater inequality of progress in different parts of the country than varying local circumstances seemed to warrant. In many places services admirably adopted for local management were reserved in the hands of the Central

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1. Imperial Gazetteer of India, Vol. IV, p. 286.

2. Moral and Material Progress Report, 1882. Chablani and Joshi : Readings in Indian Administration, p 401.

Administration, while everywhere heavy charges were levied on municipalities in connection with the Police, over which they had necessarily no executive control."[1]

Lord Ripon's Government had invited opinions of the Provincial Governments on the subject of the development of Local Self-Government in its Resolution on Provincial Finance in 1881. It circulated its own proposals to the Provincial Governments on October 10th, 1881, and invited their views on them. As a result the famous Resolution on Local Self-Government, 1882, was issued.

III

The Resolution of 1882 marks the effective beginnings of Local Self-Government in India. The development of Local Self-Government was advocated "not primarily with a view to improvement in administration" but because it was "desirable as an instrument of political and popular education"...although "in course of time, as local knowledge and local interest are brought to bear more freely upon local administration, improved efficiency will follow."[2] It would also relieve pressure on government departments and meet effectively the demand "for increased establishments" by utilizing "the rapidly growing...intelligent class of public-spirited men."[3] It was stated in the Resolution "that previous attempts" were "too often over-ridden and practically crushed by direct, though well-meant, official interference."[4] The Resolution then proceeded to lay down the general lines of advance.

In the first instance, the Local Boards were to be developed not only in towns and the cities but throughout the country ; and they were "to be charged with definite duties and entrusted with definite funds."[5] In rural areas they were to replace the local consultative committees. In order to secure local interest and local knowledge it was laid down "that the area of jurisdiction allotted to each Board should in no case be too large"[5].....The taluka or the tehsil was suggested as the maximum area. Over these Local Boards were to be District Boards with certain controlling powers.

Secondly, the Resolution provided for the maintenance and extension of Local Self-Government in towns and cities. The urban boards were to be independent so far as it was possible ; but in certain cases the District Council may have some controlling powers.

Thirdly, the Resolution laid down that "in no case ought the official members to be more than one-third of the whole."[6] There

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1. Mukherjee : Indian Constitutional Documents, Vol. I, p. 639.
2. Para 5 of the Resolution, Mukherjee : India Constitutional Documents, Vol. I, p. 642.
3. *Ibid.*, p. 642, para 6 of the Resolution.
4. Mukherjee : Indian Constitutional Documents, Vol. I, p. 643, para 7.
5. Para 10 of the Resolution, *Ibid.*, p. 644.
6. Para 12 of the Resolution, *Ibid.*, p. 645.

was thus to be considerable preponderance of non-official members in both the urban and rural boards. The non-official members were to hold office for two years.

Fourthly, the Governor-General-in-Council recommended "the adoption of the system of election .....as widely as the local circumstances may permit"[1] ; and suggested the trial of a variety of plans "to determine the most suitable general system for each province."[2] "The simple vote, the cumulative vote, election by wards, election by the whole town or tract, suffrage of more or less extended qualification, election by caste or occupation—these and other methods might all be tried." In order to attract respectable men the courtesy titles of "Rai (or Rao) Bahadur or Khan Bahadur" were to be affixed to the names of Indian members of the Boards during their term of office.

Fifthly, the Governor-General-in-Council desired "to see non-official persons acting wherever practical as Chairman of the Local Boards"[3] both rural and urban. They were of the opinion, "that so long as the chief executive officers are, as a matter of course chairmen of the Municipal and District Committees there is little chance or these Committees affording any effective training to their members in the management of the Local Boards"[3] both rural and urban. They were of the local affairs, or of the non-official members taking any real interest in local business."[4] Non-official members would not like to run the risk of unseemly collision with the executive head of the district.

Lastly, the Resolution made adequate provision for control over the Local Boards to be "exercised from without rather than from within."[5] Two powers of control were reserved to the executive authorities :—In the first place their sanction was necessary "to give validity to certain acts, such as the raising of loans, the imposition of taxes in other than duly authorised forms, the alienation of municipal property, interference with any matters involving religious questions, or affecting the public peace, and the like. In the second place, the Local Government should have power to interfere either to set aside altogether the proceedings of the Board in particular cases, or in the event of gross and continued neglect of any important duty, to suspend the Board temporarily, by the appointment of persons to execute the office of the Board until the neglected duty had been satisfactorily performed."[5]

Shortly, after the issuing of the Resolution—in 1883-84—Local Self-Government Acts were passed in the various provinces to give effect to the policy contained therein.

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1. Para 13 of the Resolution, *Ibid.*, p. 645.
2. Para 14 of the Resolution, *Ibid.*, p. 646.
3. Mukherjee : Indian Constitutional Documents, Vol. I, p. 649, para 19.
4. Para 18 of the Resolution, *Ibid.*, pp. 648-9.
5. Para 17 of the Resolution, *Ibid*,, pp. 647-8.

9

THE RISE OF THE INDIAN NATIONAL MOVEMENT

I

The event which made the period, 1861 to 1892, of lasting importance in the history of India was the rise of the Indian National Movement. On December 28th, 29th and 30th, 1885, met for the first time in Bombay some 72 leading Indians from different parts of the country to chalk out a common programme of political action. "Never before had so important and comprehensive an assemblage occurred within historical times on the soil of India."[1]

Various explanations have been offered of the origin of the Indian National Movement and of the founding of the Indian National Congress. Among them there is one to which great prominence has been given by Lala Lajpat Rai—that is the anxiety of the originators to prevent the disruption of the Empire.

The situation in India in the seventies of the last century was certainly explosive. The discontent was mounting up after the Famine of 1877. Mr. Hume—the Father of the Congress—had seen government reports—in several large volumes covering all parts of the country—which disclosed that the masses were seething with discontent and were becoming desperate. It was likely that some bitter young men from among the educated classes would take the lead, organise the people, "and direct it as a national revolt". At any rate, Mr. Hume believed that India was "in immediate danger of a terrible outbreak".[2] In the Bombay presidency, as pointed out by Sir William Wedderburn, riots actually occurred in the Deccan. "These began with sporadic gang robberies.....until the bands of dacoits .....became too strong for the police ; and the whole military force at Poona .....had to take the field against them ..A leader from the more instructed class was found, calling himself Sivaji II, who addressed challenges to the Government, offered a reward of five hundred rupees for the head of H.E. Sir Richard Temple (the

1. Speech of Mr. W. C. Bannerjee, who presided over the session : Chirol : India, p. 80.

2. Lajpat Rai : Young India, pp. 135-38.

Governor of Bombay), and claimed to lead a national revolt upon the lines on which the Maratha power had originally been founded."

The conclusion reached by Lala Lajpat Rai is :—"So in the words of these two leaders (Mr. Hume and Sir W. Wedderburn), the immediate motive of the Congress was to save the British Empire of this danger."[1]

It is not improbable that these ideas of saving the British Empire in India and the Congress acting as "a safety-valve for the escape of great and growing forces generated by British connection."[2] were present in the minds of the two ex-civilian leaders of the Congress. But it is difficult to believe that Indian leaders of the type of Dadhabhai Naroji, W. C. Bannerjee, Pheroze Shah Mehta, Tayabji, Ranade, Telang and Surendranath Bannerjee were animated by this motive. Even Mr. Hume, as is acknowledged by Lala Lajpat Rai himself, was dominated by other and far nobler motives : "He had a passion for liberty. His heart bled at the sight of so much misery and poverty.....He burned with indignation at the 'cowardly' behaviour of his countrymen towards Indians.....He was an ardent student of history and knew full well that no government, whether national or foreign, had conceded popular demands without pressure from below.....He, therefore, wanted the Indians 'to strike' for their liberty.....The first step was to organise. So he advised organisation."[3]

It would, therefore, appear that the desire to save the British Empire was not a very important factor in the founding of the Indian National Congress. As a matter of fact, a number of forces had been working for a considerable time which led to the rise of the Indian National Movement. The chief factors that gave rise to the movement in the eighties of the last century may be grouped together under six heads :—(1) inspiration of political ideals of the West ; (2) religious revival and faith in the ancient glory of India ; (3) ecnomic discontent and disappointment at the non-fulfilment of British promises ; (4) the influence of Indian press and the vernacular literature ; (5) the development of the means of communications and the holding of Imperial durbars ; and (6) the increase in feelings of racial bitterness due to the arrogant and insolent attitude of the ruling race, the blundering administration of Lord Lytton and the display of violent temper and organised scurrilous propaganda carried on by Europeans and Anglo-Indians over the ill-starred Ilbert Bill.

The part played by Western education in the political awakening of India is great. It brought Indians in touch with the best English thought—with the works of Milton, Burke, Mill, Macaulay, Herbert Spencer, and others—and instilled in them the life-giving

1. Lajpat Rai : Young India, p. 137.
2. *Ibid.*, p. 133.
3. *Ibid.*, pp. 141-42.

conceptions of liberty, nationality and self-government and made them discontented with the political conditions as they existed in the country[1] and to demand self-governing institutions and a better place in the services. Such a result was foreseen by foresighted Englishmen—such as Lord Macaulay—who had looked forward to that "proudest day in English History" when having become instructed in European knowledge, they [shall] demand European institutions.[2] Western education also gave Indians the valuable gift of a common language—*Lingua Franca*—which made it possible for them to come together, to commune with one another, to meet in conferences and congresses, and to plan a common programme of action.

The results of English education were emphasized by actual personal contact with the West. Young men went to England to complete their education ; and there were others who went abroad for other purposes. Stay in England gave them intimate knowledge of the working of free political institutions and taught them the value of freedom and independence and dispelled from their minds the cringing, slavish mentality. The England-returned Indian found it difficult to feel at home and happy in the slavish atmosphere prevalent in the country and became disgusted—and discontented—and his discontent proved infectious.

II

Another factor which worked towards the same end was the work of European scholars in ancient Indian literature and their praises of old Indian culture and civilization. Renowned European scholars like Max Muller, Monier Williams, Roth, Sassoon, Burnouf and others "revealed to India herself scarcely less than to the Western world the majesty and wealth of the Sanskrit language..... and the historical as well as the literary value of the great body... .....of Hindu literature which is the key to India's civilization".[3]

In this connection the work of the various religious reformers was of still greater importance. It made the people realise the vast gulf which separated the India of 1861-1892 from the India of old when the *Veda* and *Upnishadas* were revealed and when the great religious and philosophic works were composed. Among the religious reform movements, which served as precursors and inspirers of the national movement, may be mentioned the Brahmo and the Prarthana Samaj, the Arya Samaj, Theosophy and the teachings of Shri Ram Krishna Parmhans and Swami Vivekananda. These reform

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1. The immediate effects of Western education were not altogether good. "The new wine of western learning...went to the heads of young" Indians and several of them became utterly denationalised and demoralised and they began to ape the worst habits of Europeans. "Intemperate drinking and licentiousness of thought, taste and character became fearfully rampant."

2. Speech of Lord Macaulay, July 10th, 1833, Keith ; Speeches and Documents on Indian Policy, Vol. I, p. 265.

3. Chirol : India, p. 80.

movements though primarily religious were at the same time national. They made the people aware of their great heritage and aroused in them patriotic impulse. Religion inspired nationality.

III

As pointed out by Mr. Garrat, "the interest of the educated class in nationalism has always been partly economic and partly religious,"[1] and it is an undeniable fact that the deteriorating economic position of the country and the anti-national economic policy followed by the Government together with the policy of excluding Indians from the higher ranks of the services were responsible to no small extent from arousing anti-British feelings and the national spirit among the people in India.

India was becoming impoverished by the destruction of her industries which could not stand the competition of foreign, machine-made goods. The Government, instead of protecting and rendering aid, was helping their extinction by adopting not only a policy of mere *laissez faire*, but of deliberate Free Trade in the interests of England. The controversy over the cotton duties described in Chapter VII[2] had alienated the sympathies of the commercial and industrial classes. The pressure on land was increasing daily owing to the destruction of handicrafts ; and agriculture was suffering from various defects. The artificial exchange policy and its manipulation to serve British commercial interests were accentuating the evils. This system of administration was hopelessly expensive. There was a heavy economic drain from the country owing to foreign rule. The poverty of the people was both chronic and grinding and led to famines in years of monsoon failure. The position of the educated classes was also economically unsound. They were rapidly increasing in number. They were unfit for industrial and commercial careers—because all education at the time was directed towards training men for government service. But the higher ranks of all services were closed to them and in the lower ranks the salaries were miserably low and the number of posts were naturally limited. Unemployment among the educated classes was increasing. The Queen's Proclamation and other declarations had roused high hopes—but Lord Lytton's plain speaking had created strong resentment and dissatisfaction. And it is significant to note that the first organised agitation in India was in connection with the Indian Civil Service question in 1877-78, which was organised by the Indian Association, Calcutta. A monster meeting was held in the Town Hall, Calcutta, on March 24, 1877, which "was destined to be the fore-runner of similar and even more crowded meetings held all over India."[3] A

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1. Garrat : An Indian Commentary, p. 119.

2. See pp. 87-88, *supra.*

3. Meetings were held from one end of the country to the other—at Lahore, Amritsar, Meerut, Allahabad, Delhi, Cawnpore, Lucknow, Aligarh, Benares, Bombay, Surat, Ahmedabad, Poona and Madras. Bannerjee : A Nation in the Making, p. 44.

memorial on the Civil Service question was adopted and Mr. Lal Mohan Ghose was deputed to take it personally to England and present it to the House of Commons.

The significance of this movement is depicted by Surendranath Bannerjee, who had toured all over the country in this connection, in the following words :—

"The agitation was the means ; the raising of the maximum limit of age for the open competitive examination and the holding of simultaneous examinations were among the ends ; but the underlying conception, and the true aim and purpose of the Civil Service agitation was the awakening of a spirit of unity and solidarity among the people of India."[1]

IV

National consciousness was created and fostered by the growing Indian owned and edited press, both in English and the Indian languages. There was sharp cleavage between the Anglo-Indian and the Indian Press in the country—the one was pro-government and anti-nationalist, opposing vehemently, all steps towards racial equality—social, economic and political—between men of the ruling race and the children of the soil. The other was, on the whole, nationalist and critical of the measures of the Government and advocated full racial equality and the claims of Indians to manage, control and run the government of the country. It has been the general complaint of the Anglo-Indians—both officials and non-officials—that the Indian owned and edited press, particularly in English, had been often seditious. There is no doubt of the fact that the Indian Press suffered greatly under the various Press Laws and Ordinances and that it has to its credit a great deal of patriotic work. In earlier stages there was no national platform and its place was supplied by the Press. It awakened the educated classes and infused in them patriotic sentiment and consciousness of nationality. The Indian Press had been carrying on a ceaseless propaganda in the cause of Indian nationalism and political reform. In this connection mention should also be made of the notable part played by the development of popular literature in the various Indian languages, especially in Bengali, Bankim Chandra Chatterjee's *Anand Math* has been called by some "the Bible of Modern Bengali patriotism" and it is in this book that the song "*Bande Matram*" first appeared. *Anand Math* has also served as a text-book of revolutionary nationalism in Bengal.

V

The growth of national sentiment was helped by the development of modern transport. Lines of communications knit up the vast country and turned geographical unity into a tangible reality.

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1. *Ibid.*, p. 44.

It became possible to carry on propaganda on a national scale as in the case of the Civil Service tour of Surendranath Bannerjee and to arouse a sense of oneness and nationality among the people separated by vast distances.

In 1877 a big Durbar was held at Delhi by the Viceroy to proclaim the new title of the Queen which was attended by princes and nobles from all parts of the country. It suggested to the national workers the holding of all-India conferences and of organising a national institution on an all-India scale. The holding of the Durbar in 1877 was greatly resented by the people because India was then in the grip of a very severe famine, but because "the idea of a United India was presented by a spectacular demonstration," it was characterised by Mr. Ambica Charan Mazumdar, as "truly a blessing in disguise".[1]

VI

Among the factors making for national unity prominent place must be assigned to the increase in feelings of racial bitterness between the rulers and the ruled.

Before the Revolt of 1857 intimate and cordial relations had existed between Englishmen and Indians. There was then no colour or racial prejudice. The Englishmen were few in number and lived in close contact with the Indians. "Even mixed marriages from which several well-known families have sprung, and other unions more irregular and temporary, were much less infrequent."[1] But all this changed with the Rising of 1857.

The Rising of 1857 is, indeed, a great turning point in the history of British India It brought about a complete transformation of relationship between the rulers and the ruled. It instilled in the hearts of Englishmen an utter distrust of Indians and changed the whole policy of the Goverment towards the people. The exclusion of Indians, even the most loyal of them, from all places of real power or involving important state secrets, as in the case of the army, police, foreign and political department, the disarming of the whole population and the working of the Arms Act in a most niggardly fashion, the overawing of the masses by strong military action, are all results of the policy of distrust engendered by the Mutiny. They have bred in the people feelings of bitterness, hatred and defiance on the one hand and the cringing, slavish mentality[3]

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1. A. C. Mazumdar : Indian National Evolution, p. 33.
2. Garrat : An Indian Commentary, p. 115.
3. The Rising of 1857 demonstrated that the English were no better than their predecessors. "Nadir Shah sacked Delhi as did the English. The Moghals enforced their will by burning villages, and killing indiscriminately the innocent and the guilty. The British carried on the tradition. Henceforward the English became the secret enemy. The Mutiny marked the beginning of that inferiority complex which attacks all those who hate what they cannot bear." Garrat : An Indian Commentary, p. 44.

on the other—which have made it impossible for genuine feelings of respect, friendliness and goodwill to exist between Indians and Englishmen in general.

After the Rising of 1857 the young Englishmen who came to India had imbibed very queer notions of Indians. They had "learnt to look upon Indians as the creatures, half-gorilla, half-negro, who appeared in the contemporary *Punch* Cartoons,"[1] who understood only fear and who could be treated only with contempt and frightfulness of the type practised by General Neill and others. When they came to India and mixed with their compatriots who had survived the terrible experiences of the Mutiny, their feelings of contempt and hatred were strengthened towards the people. It was impossible for such men to mix freely with Indians or to cultivate friendly relations with them—so they built up separate cantonments and civil stations for themselves and evolved their own peculiar code of ethics. It had three important principles, as pointed out by Mr. Garrat : The first was that the life of one European was worth that of many Indians. The second was that "the only thing that the oriental understood was fear." And the third that they were there not for the benefit of the people but to enjoy the fruits of their sacrifices and for their own profit.[2] These produced disastrous results and made the gulf between Englishmen and Indians increasingly wider.

The policy of high-handedness and frightfulness that was followed by Anglo-Indians was most galling to Indians. Apart from such incidents as the riot of Malerkotla in 1872, as a result of which 49 Sikhs were blown away from guns without any trial,[3] it was "the long succession of murders and brutalities perpetuated by Englishmen upon Indians[4] which either went unpunished or for which only a small penalty was exacted, which kept the fire of hatred smouldering in the minds of the people. The situation was made much worse because, whenever such cases occurred, they were defended by official and unofficial Englishmen alike and led to a violent agitation in the Anglo-Indian Press. Writes Sir Henry Cotton :—"If a tea planter is charged with an outrageous assault upon a helpless coolie, he is tried by a jury of tea planters, whose natural bias is in his favour ; but, if in any circumstances, such as the interference by the High Court, or otherwise, a conviction should ensue, the whole volume of English

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1. Garrat : An Indian Commentary, p. 45.

2. *Ibid.*, p. 116.

3. Writes Sir Henry Cotton :—"For my part I can recall nothing during my service in India more revolting and shocking than these executions."

4. Three artillery men were found guilty of killing a respectable practitioner of Barrackpur, Dr. Suresh Chander, in a brutal fashion, but they were sentenced only to seven years' rigorous imprisonment, on which a military officer commented "that in any other part of the world but India, the three artillery men would have been hanged." The London Morning Post retorted—that without knowing his name "one must decline to believe that there is any Britisher in this country so degenerate as to subscribe to such sentiments." Theodore Morrison: Imperial Rule in India, p. 280.

opinion finds expression in denouncing the verdict, the Anglo-Indian newspapers add fuel to the flame and give free vent to this protest in their columns, public subscriptions are raised to pay the expenses of the culprit, and influentially signed memorials are addressed to the Government praying for his release."[1] The natural result was the accentuation of racial bitterness—which was a direct, contributory cause of the growth of Indian nationalism, as pointed out by Mr. Garrat.

VII

The regime of Lord Lytton was particularly full of events and incidents which resulted in an increase of racial antagonism and bitterness in India. The holding of an Imperial Durbar at a time when Indians were suffering terrible hardships in a death-struggle with a gigantic famine ; "the wanton invasion of Kabul.....followed by the Second Afghan War ; the large increase of the army under the hallucination of the Russian Bugbear, the costly establishment of a scientific frontier..... ; the complete disarming of an inoffensive and a helpless population although the Eurasians were untouched ; the gagging of the Vernacular Press..... ; the sacrifice of the import cotton duties as a conservative sop to Lancashire"[2] were measures which were thoroughly unpopular in India and aroused a storm of opposition in the country, and led to the organisation of various Indian associations to carry on agitation and propaganda among the people.

However, matters had not yet become thoroughly ripe for ushering in an All-India organisation into existence : The folly of the Anglo-Indian agitation and the exhibition of petty-minded selfishness, racial bitterness, and pride and vanity of the ruling race over the "Ilbert Bill" were needed to bring about the foundation of the Indian National Congress [3]

VIII

The Indian failure in connection with the "Ilbert Bill" controversy roused the people of the provinces and put a new life in the political associations that had existed for some time in the three Presidencies. In Calcutta, the Indian Association had called a "National Conference" in 1883, which was attened by delegates from most of the great towns of Bengal, and which was described as "the first stage towards a National Parliament."[4] In Madras a

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1. Sir Henry Cotton : New India, p. 48.
2. A. C. Majumdar : Indian National Evolution.
3. See Section VI chapter VII *supra*. The failure to securre abolition of racial discrimination was ascribed "to the want of adequate, vigorous and united support throughout the country to counterbalance the spirited and well-organised opposition of the Anglo-Indian community." A. C. Majumdar : Indian National Evolution, p. 39.
4. Reported by Mr. Wilfred Blunt, quoted in S. N. Banerjee : A Nation in Making, pp. 86-7.

Provincial Conference was held in 1884 by the Madras Mahajan Sabha. In Bombay on January 31, 1885, a public meeting was held which ushered into existence the Bombay Presidency Association. The Poona Sarvajanik Sabha, founded in 1870, continued to do useful work and it played an "important part in the awakening of Western India, and in creating a public opinion upon political, social and economic matters."[1] On March 1st, 1883, Mr. Hume[2] addressed an open letter to the graduates of the Calcutta University appealing to them to volunteer themselves for national service by emphasising "the eternal truth that self-sacrifice and unselfishness are the only unfailing guides to freedom and happiness."[3] Later in December 1884, "17 goodmen and true," representing all parts of the country, most of whom had gone to Madras to attend the annual Convention of the Theosophical Society, met at the house of Dewan Bahadur Raghunath Rao in Madras, and resolved to work in different parts of the country with a view to form a national organisation.[4] About the same time an Indian Union was formed which issued a manifesto in March 1885 calling a conference at Poona in the next Christmas with the "objects of enabling national workers to know each other and to discuss and decide the political programme for the ensuing year".

Before issuing the Manifesto Mr. Hume had consulted the Viceroy, Lord Dufferin, and it was on his suggestion that Mr. Hume had given the organisation a political orientation, otherwise his own idea was to make it a social meeting ground. Lord Dufferin wanted the new organisation to perform "the functions which Her Majesty's Opposition did in England.....to point out to Government in what respects the administration was defective and how it could be improved."[5]

After issuing the Manifesto and fixing the dates of the Congress (28th to 30th December, 1885) Mr. Hume went to England to prepare the ground there. He returned to India in time to attend the Congress, whose venue was shifted to Bombay, owing to an outbreak of cholera at Poona. Thus, on the 28th December, 1885, met for the first time the Indian National Congress at Bombay to discuss political matters of national importance.[6] Seventy-two delegates

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1. Kellock : Mahadeva Govind Ranade, p. 25.
2. Mr. Allan Octavian Hume was a distinguished British official in India, who had resigned service in 1882 and had settled down at Simla. He is known as the "Father of the Indian National Congress."
3. Quoted by Majumdar : Indian National Evolution, p. 47.
4. Annie Besant : How India Wrought for Freedom, p. 1.
5. Majumdar : Indian National Evolution, p. 51.
6. About the same time a National Conference was held at Calcutta at which "not only Bengal was represented, but delegates attended from several towns in northern India such as Meerut, Benares, Allahabad....." Surendernath Bannerjee and Mr. Ameer Ali were the chief organisers. It was too late to suspend the Conference when they learnt of the Congress meeting at Bombay but from the next year, writes Sir Surenderanath "those who worked with us joined the Congress and heartily co-operated with it." S. N. Bannerjee : A Nation in Making, pp. 98-9.

from all parts of the country attended the first session and since 1885 the congress has met every year at some important centre in India from one end of the country to the other.

The Congress was a national organisation and represented all the peoples of the country. The number of Muslim delegates, however, was small[1] in the beginning, and the great Muslim leader of the day, Sir Saiyed Ahmad, held aloof from the Congress and went so far as to start a counter organisation[2] of utra-loyalists with the help of Raja Shiv Prasad of Benares. Otherwise, the Congress was fully representative[3] of the people and till the Split of 1907 contained almost all the noted Indians of the day and also a number of able and liberal-minded Anglo-Indians like Mr. Hume, Sir William Wedderburn, Sir Henry Cotton, Mr. Andrew Yule and Mr. Norton.[4] Till the Surat Split the Congress was a moderate or a liberal organisation and represented only the educated classes,[5] its leaders, with the exception of Mr. Tilak and possibly of Mr. Gokhale, were not prepared to make personal sacrifices to win liberty but were believers in "political mendicancy" and not in self-reliant independent action. But nonetheless, the Indian National Congress of 1885-1907, with all its professions of loyalty, studied moderation, and appealing, nay, begging tone, did in those days a great amount of spade work in national awakening, political education, and in uniting Indians and in creating in them the conciousness of a common Indian nationality.

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1. At the first session 2 Muslim delegates attended, at the second there were 33 Muslim delegates and at the sixth Congress 107 Muslim delegates attended.

2. Mr. Hume divided the opponents of the Congress into three classes :—(*a*) Anglo-Indian officials and the Anglo-Indian press ; (*b*) a few Indian fossils, honest but wanting in understanding ; (*c*) and a certain number of time servers.....So far as the Muslims were concerned, Mr. Hume's opinion was that "the hostile stimulus came from the outside, from a few ill-advised officials who cling to the pestilential doctrine of "*Divide et impera.*" He called the counter-agitation as artificial and mischievous. Wedderburn : Allan Octavian Hume, pp. 71-72.

3. However the delegates were not elected representatives of the people. They represented the best minds of the nation.

4. Writes Lala Lajpat Rai :—"The movement was started by an Englishman at the suggestion of an English Pro-Consul." "It was a movement not *from within*" (Young India, p. 154). It was true that Mr. Hume was one of the chief organisers of the Congress and that his consultation with Lord Dufferin was responsible for giving it a political colouring. But it is also a fact that Lord Dufferin opposed the movement in 1888 and described the Congress as representing a "miscroscopic minority". Moreover, as has been described above, the foundation of the Congress was the culmination of a movement which was essentially national and indigenous. The ground for it had been prepared by political associations in the provinces and the idea of a national organisation was first given out by Surendranath Bannerjee in 1883 and even at the time when the Congress met at Bombay the National Conference was holding its sittings at Calcutta.

5. Writes Sir Valentine Chirol in Indian Unrest, pp. 154-55 :—"It represents only one class, or rather a section of one class, the Western educated middle and mainly professional class, consisting largely of lawyers, doctors, school masters, newspapermen—important and influential class no doubt, but which only represents an infinitisimal fraction—barely, one-hundredth part of the whole population."

10

THE INDIAN COUNCILS ACT, 1892

I

The Indian Councils Act, 1892, was the first result of the work of the Indian National Congress. The Congress had passed at its very first session a resolution expressing grave dissatisfaction at the existing system of government and had asked for "the reform and expansion of the .....Councils by the admission of a considerable proportion of elected members," "the creation of similar Councils for the N. W. Province and Oudh, and also for the Punjab", and for giving to the Councils the right of discussing the Budget and interpellating "the Executive in regard to all the branches of the administration."[1]

The proceedings of the Congress were watched with sympathy by the Government for the first two years but its attitude changed entirely from 1888, as the Congress began to attract too much attention both in India and in England. Lord Dufferin characterised the Congress as representing only a "microscopic minority"[2] of educated Indians. All sorts of difficulties were placed in the way of the holding of the 4th session at Allahabad and in 1890 instructions were issued prohibiting government servants from attending the sessions of the Congress.

All the same, Lord Dufferin felt it necessary to take the Congress demand for reform of the Councils seriously. He appointed a Committee of his Council and with its help drew up "a plan for the enlargement of our Provincial Councils for the enhancement of their status, the multiplication of their functions, the partial introduction.....of the elective principle, and the liberalisation of their general character as political institutions."[3] However, no attempt was made to introduce the parliamentary system and the executive was to remain "directly responsible, not to any local authority, but to the Sovereign and the British Parliament."[4] For this reason the plan provided for the retention of the majority of the

1. Resolution No. 3, Besant : How India Wrought for Freedom, p. 13.
2. Speech of Lord Dufferin at St. Andrews Club, Calcutta.
3. Report on Indian Constitutional Reforms, 1918, p. 42.
4. *Ibid.*, p. 43.

nominated element and of the power to the executive head of overruling the Councils.[1]

The Secretary of State for India, while approving the other features of the plan, did not agree to the introduction of the principle of election. However, while dispatches were passing between the Secretary of State and the Government of India, a Bill to amend the Indian Councils Act, 1861, was introduced by Mr. Charles Bradlaugh in the House of Commons in 1890, embodying the scheme of reforms passed by the Congress Session of 1889, over which he had been called upon to preside. The chief features of the scheme were a system of election through electoral colleges and the restriction of the official element to not more than one-fourth—the elected element was not to be less than one-half in both the Imperial and Provincial Legislative Councils. The Bill, however, was crowded out by the other business.[2]

In 1890 the Government measure was introduced in the House of Lords and was passed by it with certain important amendments but could not go beyond the first reading stage in the House of Commons. It was not until 1892 that the amended Goverment Bill could pass the two Houses and become the Indian Councils Act, 1892.

II

The first thing that the Act of 1892 did was to increase the number of additional members—in the case of the Supreme Council to not less than ten and not more than sixteen ; and, in the case of the Bombay and Madras Councils to not less than eight and not more than twenty.[3] The maximum for Bengal was fixed at twenty and for the N.W.P. and Oudh at fifteen.[3]

The increase in the number of additional members was described by Mr. Schwann, M.P., "as a very paltry and miserable addition" but was defended by Mr. Curzon with the plea "that the efficiency of a deliberative body is not necessarily commensurate with its numerical strength...over-large bodies...do not promote economical administration, but are apt to diffuse their force in vague and vapid talk."[4]

Secondly, the Act empowered the Governor-General in Council with the approval of the Secretary of State in Council to make regulations for nomination of additional members and "to prescribe the manner in which such regulations should be carried into effect."[5]

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1. Report on Indian Constitutional Reforms, 1918, p. 44.
2. Mr. Bradlaugh made another attempt next year but with the same result.
3. Clause I —Sub-Sections 1 and 2 of the Act, Mukherjee : Indian Constitutional Documents, Vol. I, p. 227.
4. Keith : Speeches and Documents on Indian Policy, Vol. II, p. 60.
5. Clause I—Sub-Section 4 of the Act, Mukherjee : Indian Constitutional Documents, Vol. II, p. 227.

It was assured by the Government, as stated by Lord Kimberley, that "under this clause it will be possible for the Governor-General to make arrangements by which certain persons may be presented to him, having been chosen by election, if the Governor-General should find that such a system can properly be established."

Thirdly, the Act enabled the Councils to discuss the annual financial statement—"not to vote the Budget...item by item...but to...indulge in a fully, free and fair, criticism of the financial policy of the Government."[2]

Lastly, the members of the Councils were given the right of asking questions on matters of public interest, subject "to such conditions and restrictions as may be prescribed in rules made by the Governor-General or the provincial Governors."[3]

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1. Keith : Speeches and Documents on Indian Policy, Vol. II, p. 60.
2. *Ibid.*, p. 56.
3. *Ibid.*, p. 57.

PERIOD II

1892—1909

11

CHANGES : ADMINISTRATIVE AND CONSTITUTIONAL

I

The next landmark in the history of constitutional development in India is the passing of the Indian Councils Act, 1909, embodying the reforms associated with the names of Lords Morley and Minto. The intervening period—1892-1909—is important for several administrative acts and changes, many of which are associated with the name of Lord Curzon. The keynote of these changes is centralization and officialisation though the policy of financial devolution begun in the last period is continued. Another feature of Lord Curzon's regime was the distrust of Indians and the disbelief in their ability and honesty and an inexorable quest for efficiency,[1] irrespective of the consequences. However, the most notable event of the period, 1892-1909, was the birth of a new spirit in the people—the spirit of manliness and self-reliance and willingness to sacrifice to win national freedom. The last six years of the period were years of grave turmoil and unrest. They gave rise to two new schools of political thought—the terrorist and the anarchist school and the school of romantic nationalism led by Mr. Tilak, Babu Arbindo Ghosh, Babu Bipin Chandar Pal and Lala Lajpat Rai. The Indian National Congress was split into two camps—the Moderates and the Extremists ; and the British Government, in order to stem the tide of extremism and revolution, devised the policy of rallying the Moderates and the Mohammedans and initiated the Reforms of the Councils, popularly known as Morley-Minto Reforms.

II

The first event in this period, 1892—1909, that calls for notice is the continuance of the policy of financial devolution. The Govern-

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1. In his farewell speech on 30th September, 1905, Lord Curzon said : "If I were asked to sum up my work in a single word, I would say, 'efficiency'. That has been our gospel, the keynote of our administration." Nevinson : The New Spirit in India, p. 13.

ment of Lord Curzon tried to remove the fourfold defects[1] of the 1882 system by the Quasi-Permanent Settlement of 1904—by fixing definitely the share of revenue which each province was to receive and which was not to be changed except in cases of grave Imperial necessity or "unless experience proved that the assignment made was disproportionate to normal provincial needs."[2] The assignments made were calculated in accordance with the then existing normal requirements of the various provinces and annual grants were to be made for special purposes to supplement them. This, no doubt, led to the perpetuation of the existing inequalities but removed uncertainty and the temptation to extravagance and the depletion of balances. Economy was not only made possible but encouraged as the policy of attaching provincial surpluses was abandoned.

The system inaugurated in 1904 did not come into force in all provinces till 1906 and was extended to Burma in April 1907. It was continued with little variation till 1912.

III

The second important event of this period is the unification of the army in India and its reorganisation with a view to efficiency in war. This was largely the work of Lord Kitchner, who was Commander-in-Chief in India during 1902-1909. Although the scheme of reforms was submitted to the Government in November 1903, the actual reorganisation was not complete till 1908. An important step in this direction was the passing of the Madras and Bombay Armies Acts, 1893, by the British Parliament, which abolished the offices of the Commander-in-Chief of the Madras and Bombay Armies, placed the whole army in India under a single Commander-in-Chief and under the control of the Governor-General-in-Council.[3]

In 1908, the Indian Army consisted of two parts or armies, each of five divisions. The Northern Army had its headquarters at Murree and the striking point at Peshawar; and the Southern Army had its headquarters at Poona and the striking point at Quetta. "At the head of each—was a General Officer, who was responsible for command, inspection and training, but had no administrative functions.[4] For administrative purposes both the armies were directly subordinate to the Army Headquarters. For

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1. See p. 91 *supra*. The system of quin-quennial revisions led to wasteful expenditure; to 'unseemly wrangles at the time of revision'; made for over-rigidness in the collection of land revenue; and led to an increase in inequalities between the various provinces.

2. Report on Indian Constitutional Reforms, 1918, p. 70.

3. The way for unification of the army had been prepared by a number of steps taken earlier. In 1864 the three Military Accounts Departments were consolidated into one; in 1876 the three Remounts Departments were amalgamated; in 1884 the three Ordinance Departments were united; and in 1891 the three Presidency Staff Corps were combined in one Indian Staff Corps. In 1886-87 the first Indian Reserve—both active and garrison—was formed.

4. Indian Army and its Evolution, p. 31.

the training of officers a staff college on the Camberley Model was started at Quetta.

The result of the reforms of Lord Kitchner was an increase in the strength[1] and efficiency[2] of the Indian army but they were also responsible for a large increase in military expenditure. Moreover, the Reforms did not mean any improvement in the position of Indians in the army. On the other hand, the distinction between martial and non-martial races was pushed still further and the old class basis was maintained. The strength of the British troops was augmented, although they were to be used mainly for "internal security" and not so much for the protection of Indian frontiers.[3]

IV

Closely connected with the question of the re-organisation and re-distribution of the Indian Army was the question of frontier policy and control. Frontier districts were under the dual control of the Punjab and the Central Governments involving "friction, divided counsels,—vacillation—exaggerated centralization," and "interminable delays."[4] Lord Curzon proposed the abolition of the dual control and the constitution of a separate North West Frontier Province, under a separate Chief Commissioner directly responsible to the Government of India. This was sanctioned by the Secretary of State and the new province came into existence on 9th November, 1901, the birthday of the new King-Emperor—the late King Edward VII.

Before leaving Lord Lansdowne had initiated the "Forward Policy" of establishing full control over the tribal territory as distinguished from the "Back to the Indus" policy advocated by certain military experts. Lord Curzon took up the middle position. He withdrew most of the British or Regular troops—10,000 out of 15,000—from advanced positions, He entrusted the defence of the tribal territory to over 10,000 irregular troops raised from the tribesmen. He adopted the system of making fixed allowances to the tribesmen at regular intervals "for keeping open the roads and the passes, for the maintenance of peace and tranquillity and for the punishment of crime."[5] Behind the irregular troops was stationed military police to prevent the incursions of marauding free-booters into the British territory. Regular troops were kept at convenient centres behind ready to strike at a moment's notice. Finally, roads

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1. The strength of the Field Army was increased to 9 Infantry and 8 Cavalry divisions with a total strength of 152,000 men besides 82,000 internal security troops.

2. The reorganisation enabled India "to despatch two powerful armies, one to the line of Helmund and the other to the heights beyond Kabul—" Frazer : India Under Curzon and After, p. 407.

3. Since the Mutiny British troops have performed more and more the functions of an occupation army rather than of a defence force.

4. Ronaldshay : Life of Lord Curzon, Vol. II, p. 134.

5. Frazer : India Under Curzon and After, pp. 53-4.

were improved and strategic railways were constructed to facilitate the moving of military columns. Thus was made the system of defences strong on the North West Frontier of India.

V

The policy of centralization begun in the case of the Frontier was carried out in other administrative spheres as well by Lord Curzon. He created a number of "expert appointments" for guiding and controlling the policy in such subjects as education, agriculture, sanitation, irrigation, archaeology, mines, commercial intelligence, etc. He found that the administration of these subjects was suffering from the lack of a definite policy, uniform standards and central control. To remedy these defects expert appointments—Directors-General of Education, Archaeology, Commercial Intelligence and Criminal Intelligence ; Inspectors-General of Agriculture and Irrigation ; and the Sanitary Inspectors and Chief Inspector of Mines—were created.

Lord Curzon also tried to impugn upon the autonomy of the Presidency Governments of Bombay and Madras and to reduce them to the level of other provincial governments. But the Secretary of State and the British Cabinet did not agree.

VI

Closely allied to this policy of centralisation was that of officialisation of such popular institutions as the local bodies and the Universities, substituting nominations for competitive examinations, and the keeping of higher public offices reserved for the British, because "they possess, partly by heredity, partly by upbringing, and partly by education, the knowledge of the principles of government, the habits of mind, and the vigour of character which are essential for the task."[1] Lord Curzon did not believe in the policy of educating Indians—as Lord Ripon had done—for self-government. He did not wish to sacrifice efficiency in the present for efficiency and freedom in the future. He was, therefore, responsible for two statutes directed towards the curtailment of local self-government and the officialisation of the Universities.

The Calcutta Corporation Act, 1899, reduced the size of the Corporation from 75 to 50 members by cutting the 25 representatives of the taxpayers and giving the British element a definite majority and reducing Indians to a minority both on the Corporation and on its committees. The measure was strongly resented by the people and 28 Indian members of the Corporation resigned in a body as a mark of protest.

The same policy appears to have been responsible for the passing of the Indian Universities Act, 1904. As pointed out by Lord Ronaldshay, the chief result was to Europeanise the Senates and

1. Quoted in Buchan : Lord Minto.

Syndicates of the universities and to turn them into some of "the most completely governmental universities of the world."[1] Lord Curzon had enunciated the doctrine of state responsibility and control in the matter of university education as early as 1900 and he attempted to carry it out through the Indian Universities Act, 1904. The measure was vehemently opposed by educated Indians throughout the country. They, "sincerely thought," writes Sir Lovat Fraser, "that the Viceroy meant to deal a blow at the University system."[2]

The Act of 1904 attempted to achieve three main things—(1) to extend the functions of the universities from mere examining to the active promotion of study and research—which remained a pious hope for several decades, (2) to make the connection with the affiliated colleges closer and control over them stricter, and (3) to reduce the size of senates, syndicates and faculties. On the new senates four-fifths of the members were nominated by the Government.

As pointed out by the official biographer of Lord Curzon, the expectations raised by the measures were not realised :—"Truth compels the admission that the changes actually brought were small out of all proportion to the amount of thought which the Viceroy had devoted to them."[3]

VII

Lord Curzon was more fortunate with his reforms connected with land and its revenues, currency and commerce, irrigation, police and railway administration and the general machinery of bureaucratic government.

The machinery of administration had settled down "in a well-worn groove" and had become "clogged and over-weighted in all its parts." The amount of noting and report writing was so great that "a question gets tied up in a tangle of manuscript and print in which the real issues are utterly obscured."[4] This led to interminable delays—one case was hung up for sixty-one years. Lord Curzon suggested a number of improvements. He "tried to induce the departments to settle their business in personal consultations. to avoid protracted controversies, to reduce the practice of 'noting' and prevent delays in arriving at conclusions."[5]

It is not necessary to deal here with all the other administrative reforms initiated by Lord Curzon. Attention may be drawn here very briefly to the reforms introduced in the system of administration of the Police and the Railways.

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1. Ronaldshay : The Life of Lord Curzon, Vol. II, p. 193.
2. Frazer : India Under Curzon and After, p. 181.
3. Ronaldshay : The Life of Lord Curzon, p. 195.
4. *Ibid.*, Vol. II, p. 26.
5. Frazer : India Under Curzon and After, p. 256.

The police system was re-organised in 1861 on the basis of the recommendations of the Police Commission, 1860. In each province the police was under the general management of an Inspector-General. In each district there was a Superintendent who was assisted in larger districts by an Assistant Superintendent both of whom were Europeans. Each district was divided into a number of circles, each in charge of an Inspector and each circle had a number of police stations, each under a Head Constable. They were all in the subordinate service. The District Magistrate had general powers of supervision and management.

There was general dissatisfaction with the working of the police system and in 1902 a Police Commission was appointed with Sir Andrew Fraser as Chairman. The Commission made elaborate recommendations arranged under 127 heads, which were largely accepted by the Government and given effect to in 1905. Among the important recommendations of the Commi sion were :— (1) direct recruitment in place of promotion in higher ranks and a clear demarcation in the police organisation above the head constable class, (2) increase in salaries,[1] (3) increase in the police force and employment of existing village agencies for police work, (4) establishment of training schools both for officers and constables, (5) reforms in the method of investigation, (6) work to be judged by local inspection and inquiry, and not by statistics ; and (7) establishment of Provincial Departments of Criminal Investigation with a Central Department under a Director of Criminal Intelligence.

The reorganisation of 1905 nearly doubled the cost of police administration from £2,691,344 in 1901-02 to £4,602,997 in 1911-12 ; but there was no proportionate increase in the efficiency of the police force. It continued to be as unpopular as before.

The system of railway administration in India was also unsatisfactory and needed a 'root and branch' reform, according to Sir Thomas Robertson, the railway expert invited by Lord Curzon from England to advise him. Acting on his recommendation a Railway Board was created in 1905, consisting of a Chairman and two members. In 1908, the Board with its staff—with the designation of the Chairman changed into President, with extended powers and direct access to the Viceroy—was constituted into a separate Railway Department, with its own Accountant-General and Chief Engineer. The Department was included in the portfolio of the Member-incharge of Commerce and Industry.

VIII

Among events of constitutional importance that took place during this period may be mentioned the passing of the Resolution in favour of holding simultaneous examinations for the I.C.S. in

1. The minimum pay recommended for a constable was Rs. 8 but the Government fixed it at Rs. 7 per month.

the House of Commons in 1893 ; the death of Queen Victoria, the coronation of King Edward VII, the holding of the Delhi Durbar and the visit of H. R. H. the Prince and Princes of Wales ; the passing of the Indian Councils Act, 1904, and the Council of India Act, 1907 ; and the clarification regarding the position of the members of the Viceroy's Council and of the relationship between the Governor-General and the Secretary of State for India.

The resolution in favour of holding simultaneous examinations for the I. C. S. passed in 1893 was the result of the efforts of Mr. Dadabhai Naroji in the House of Commons, of which he was then a member. It was held by the then Secretary of State that the Resolution was passed by a snatch vote. It was sent for opinion to India ; but, with the notable exception of the Madras Government,[1] all the other Governments, both Central and Provincial, were strongly against the resolution.

On January 23rd, 1901, death took place of Queen Victoria ; and Lord Curzon decided to found a memorial to commemorate her reign, as well as "the renowned or remarkable episodes of the past and should provide a gallery or museum for the collection of similar objects in the future."[2] The result was the construction of the famous Victoria Memorial Hall at Calcutta at the huge cost of £550,000. It has been described by Lord Ronaldshay as "the finest structure that has been reared in India since the days of the Moguls, and the most splendid concrete monument of British Rule."[3]

Lord Curzon proposed to King Edward VII the idea of holding his coronation in India as well, during the next cold weather ; but when this was not found acceptable he proposed the holding of a grand Imperial Durbar instead, which was held on January 1st, 1903, at a cost of £180,000 excluding military expenditure and the lavish outlay by the Indian States.

During this period also took place the visit of the then Prince and Princess of Wales, which passed off well, in spite of the fears that were entertained on account of the prevailing atmosphere of resentment in the country due to the Partition of Bengal.

IX

In accordance with the provisions of the Act of 1874 the post of the Public Works Member was both created (in 1875) and abolished (shortly before the arrival of Lord Curzon in India). In 1903, the Viceroy pressed for the creation of a Sixth Membership of his Council once again, this time for the portfolio of Commerce and Industry. This was done by the Indian Councils Act, 1904. The Act empowered the Crown to appoint a Sixth Ordinary Member to the

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1. The Madras Government had also expressed itself against the Gagging Act, 1878.
2. Ronaldshay ; Life of Lord Curzon, Vol. II, p. 157.
3. *Ibid.*, p. 162.

Executive Council of the Governor-General, without specifying the portfolio. A Member for Commerce and Industry was added in 1905.

The constitution of the India Council was also modified during this period by the Council of India Act, 1907. By it the Secretary of State for India was empowered to raise the maximum number of members to fourteen. The service condition was also modified, the period having been reduced from ten to five years. The salary and tenure of members was also reduced from £1,200 to £1,000 a year and from ten to seven years respectively.

X

With the enlargement of the size and powers of the Legislative Council in 1892 the question arose as to whether members of the Executive Council could speak and vote as they liked in the legislatures, if necessary, even opposing each other. This was finally settled by the Dispatch of the Secretary of State, dated the 26th June, 1895, which unequivocally laid down the doctrine of the solidarity and the unity of the Executive Council in all matters—both executive and legislative. "The policy adopted is the policy of the Government as a whole, and, as such, must be accepted and promoted by all who decide to remain members of the Government."[1]

Within the next few years serious differences arose in the Viceroy's Executive Council leading ultimately to the resignation of Lord Curzon. The controversy was over a very important constitutional issue—*viz.*, the position of the Commander-in-Chief in the system of government in the country. The position taken up by Lord Kitchner was constitutionally incorrect and in practice dangerous. He wanted to be both the Commander-in-Chief and the War Minister at the same time, as pointed out by Lord Curzon. But the political exigencies in Britain made the British Government support the Commander-in-Chief rather than the Viceroy[2] and the Secretary of State proposed a compromise, which was modified by the Viceroy, and accepted by both the parties.[3] However, when the time came for putting it into operation, it was realised by the Viceroy that the Secretary of State did not intend to carry out the compromise in its true spirit. The Viceroy had suggested the name of General Barrow but the Secretary of State rejected the suggestion and proposed to appoint a person with more technical qualifications for the work of supply. Under the circumstances Lord Curzon had no option but to telegraph his resignation. This he did on August 12,

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1. Dumbell : Loyal India : A Survey of Seventy Years, pp. 37-8.

2. After his great victories in Sudan, Lord Kitchner was regarded as a national hero and it was believed that his resignation would mean a fall of the Ministry in England.

3. The compromise accepted was that besides the Commander-in-Chief, there will be a Member of Supply, who will act as a second adviser on Military Affairs to the Government, besides looking to the technical matters of Military Supplies.

1905. The resignation was accepted and Lord Minto was appointed Lord Curzon's successor.

Under the system that finally came into force on March, 19, 1906, the Military Department was split into two—the Army Department in charge of the Commander-in-Chief and the other Department of Military Supply in charge of the new member of Military Supply. These arrangements placed too great a strain upon the Commander-in-Chief especially after the post of the Supply Member was abolished, in 1909, as there was not enough work for him. As remarked by the Report of the Mesopotamian Commission—it was not possible for one man to perform adequately the combined duties of the Commander-in-Chief and the Military Member of the Council, particularly in times of war. This was demonstrated tragically in the conduct of operations in Mesopotamia during the 1st Great War. The position was also serious from the points of view of military expenditure and Indianization of the Army—as a reduction in the expenditure and quickening in the rate of Indianisation would be easier to secure under civilian rather than military control.

XI

The resignation of Lord Curzon once again brought to the forefront the question of relationship between the two heads of the Indian Government—the final, legal authority at Home and the Man on the spot, the Head of the Government in India. The legal position was clear and unambiguous—the Governor-General was subordinate and was required to obey the Secretary of State and to carry out the instructions and orders issued by him Nonetheless, the actual relations varied from time to time and depended less on the letter of the law than upon personal equation. This has never been made clearer than in the period, 1892-1909, when India had perhaps the strongest Viceroy of modern times, and, a little later, when the India Office had one of the ablest and most influential member of the Cabinet as its Chief (Lord Morley)—who in spite of his radical views on democracy was apt to be most autocratic in practice.

The two Secretaries of State, with whom Lord Curzon had to deal, were his personal friends and admirers—who went to the utmost length to accommodate him[1] but they ultimately had to overrule him. As was pointed out to him by Sir A. Godley—the general impression was "that you are inclined...to carry your protest beyond the recognised official limits, to bring pressure to bear to force the hands of the Government at home"[2] Ultimately things reached such a pass that the Secretary of State was forced to administer to

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1. "You will not believe it," wrote Mr. Broderick to Lady Curzon, "but the Secretary of State practically abdicates his legal functions and becomes George's (Lord Curzon's) ambassador at the Court of St. James..."

2. As an instance, it may be mentioned that when the British Government declined to sanction the association of the King's name with the remission of taxation at the Delhi Darbar Lord Curzon cabled to the Private Secretary of the King for help.

Lord Curzon such a rebuff the like of which it is difficult to find[1] in the history of relationship between the Secretary of State and the Governor-General of India.

The chief factor that was responsible for the failure on the part of Lord Curzon to maintain cordial relations with the authorities at Home was of a personal nature. He did not possess an "understanding mind." His temperament was autocratic and obstinate and these defects were aggravated by his physical ailment, strain of overwork and the trying climate. He lacked imaginative sympathy and tact and invariably rubbed the people the wrong way. And, in spite of his great abilities, his tremendous energy and application, his organising skill and administrative powers, his high sense of duty and of quixotic justice, his desire to do good to the people and make government efficient he failed to win public confidence and support either in England or in India.

In strange contrast to Lord Curzon was the personality of his successor, Lord Minto. Writes his biographer : "Minto shrewdly assessed the temperament of the Secretary of State and set himself to counteract its dangers. His aim was by patient arguments and adroit suggestions to get Mr. Morley to believe that the policy of the Government of India was initiated by White Hall....."[2] However towards the end of his term the relations of Lord Minto with Lord Morely were becoming rather strained. This was due largely to the strictness of control exercised from Home over the Government of India. Wrote Lord Minto :—"No one except those who have been behind the scenes here knows that the interference has been about every little thing."[3] However, his tact, skill and unfailing courtesy and suavity of manners saved the situation and he was able to get his way....."in everything since I have been here....."[3]

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1. The Despatch was characterised by Lord Ripon "as the greatest rebuff administered to any Government of India since the days of Lord Ellenborough's famous Despatch to Lord Canning about the affairs of Oudh."
2. Buchan : Lord Minto, pp. 223-4.
3. *Ibid.*, pp. 312-13.

12

THE RISE OF RELIGIOUS NATIONALISM

I

The national movement had begun in India with the foundation of the Indian National Congress in 1885 and it was due to the agitation carried on by it that the Indian Councils Act, 1892. was ultimately passed by the Parliament. The instalment of reforms contained in the Act of 1892 did not satisfy the Congress and it gave expression to its dissatisfaction at the session held in X'mas 1893. The system of elections introduced was a round about one ; the rights given to members of the Councils were strictly limited ; the Punjab was "denied the right to be represented either in the Viceroy's or in any local Council" ; and the rules of election framed were unfair—they deprived certain sections of representation altogether and gave other interests undue representation.[1] In framing the rules care had been taken to see that the persons chosen should be as far as possible not independent men but those who could be easily influenced.[2] The number of non-official members was very small.[3] The functions and powers of the Councils were strictly limited. Under these circumstances the Council did not provide much scope for useful work of national uplift—that work had to be done from the platform of other associations, political, social and religious, and through the Indian Press.

The chief among the other associations which did work of national awakening and regeneration was the Indian National Congress. Every year at the end of December educated Indians interested in politics and in the building up of an Indian nationality met in an important town of each province by turns and discussed the various questions of national concern, especially relating to

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1. Resolution I of 1893. Besant : How India Wrought for Freedom, p. 177.

2. To give one instance : out of 6 seats in Bombay 2 were allotted to a European mercantile community but none to the Indian mercantile community. Two seats were given to Sindh while none to the Central Division of the Bombay Presidency, containing Poona and Satara.

3. Out of the 24 members in the Central Legislative Council 14 were officials and 5 elected and 5 nominated non-officials.

administration, education and economics and gave expression to their views on them in a moderate, reasoned and loyal manner, in the form of resolutions. These resolutions and the speeches of the leaders thereon were reproduced in the Indian press and were commented upon. They were read and discussed by thousands of Indians all over the country and they could not but influence their minds and hearts. It was unfortunate that the resolutions of the Congress had no influence upon the Government and the reforms asked in them were not effected. But, nonetheless, the educative value of the work done by the Congress was great. The number of persons taking interest in public affairs was growing and a public opinion was being built up in the country on questions of national importance. The actions of the Government. were being watched closely and during the first five years of the 20th century aroused a storm of opposition. As a matter of fact a new life was pulsating in the hearts of the people and the national movement was broadening into a real mass movement. There arose two new schools of nationalism, both of which were permeated with a deep religious spirit, though each followed its own separate methods. The leaders of each school were men of great courage and of self-sacrificing and independent spirit, dominated by the love of the country and the dislike of foreign rule ; and they were distinguished from the older Congressmen by their disbelief in the good faith and generosity of the British and in the efficiency of the method of 'political mendicancy' and by their faith in self-reliant and independent action. The leaders of both the new schools were dominated by the same spirit ; they were against westernisation of India and her people ; they were intensely and even aggressively nationalistic ; and they worked for the same goal—a free, independent India restored to its pristine purity and ancient glory and prosperity. The difference between the two schools was one of method only—the Extremists believed in political agitation and national reconstruction through the boycott of British goods and British institutions such as government offices, courts, schools, etc., and through *swadeshi* and the setting up of national, indigenous institutions like the national schools, arbitration boards, panchayats, etc. The Revolutionaries believed in the efficacy of Western revolutionary methods and specially in terrorism and political assassinations through dacoities and the use of the pistol and the bomb.

II

The rise of new nationalism in the first decade of the 20th century cannot be attributed to any single factor like the bid for power by the displaced Brahmins[1] or to the discontent caused by the partition of Bengal and other unpopular acts of Lord Curzon's regime or to the failure of old Congress methods of sweet reasonableness and petitions. There were a number of factors, including the last two just mentioned, which combined to give a new turn to the Indian

1. Chirol : Indian Unrest, pp. 10, 11, 40 and 43.

National Movement in the beginning of the 20th century and led to the creation of the two new schools of nationalism—the Extremists and the Revolutionaries.

In the first instance certain events took place abroad which had a great liberating influence upon the minds of the people in India. Among them were the defeats of the Italians by Abyssinians in 1896[1] and more particularly of Russia by Japan in 1905. They exploded the myth of European superiority and invincibility and heralded "the dawn of a new era for the whole of Asia."[2] They gave a new hope to the people in India and made them study the History of Japan and to enquire into the causes of her rising greatness. Her success was attributed to her unique patriotism, spirit of sacrifice and nationality. "These virtues," it was thought, "could work miracles, and enable even a subject and disarmed country like India, to free herself from the crushing bondage of England."[3] These ideas were strengthened by the accounts Indians read of the new movements for national uplift and freedom that were going on in oriental and semi-oriental countries like Egypt, Russia, Persia and Turkey. In this connection it is also necessary to mention the influence exerted by the achievement of national unity and independence by Italians under the inspiring leadership of Mazzini, Garribaldi and Cavour. The life and works of Mazzini in particular were written and translated in Indian languages and the national leaders in India used the Italian example to arouse patriotism in the minds of their countrymen.

More important than the influence of external events in arousing Indians and in making them discontented with things as they were was the quest for efficiency pursued ruthlessly by Lord Curzon in India, trampling under foot all ambitions and aspirations of young Indians. During 1892-1909 a series of unpopular acts were passed and enforced by the British administration which aroused a storm of opposition in the country and bred hatred of foreign rule in the minds of Indians. The results of the passing of the Calcutta Corporation Act, 1899, and the Indian Universities Act, 1904, have already been described in the previous Chapter. Attention may be drawn here briefly to the other unpopular measures and policies of this period.

The first among the unpopular measures was the Age of Consent Act, 1891, which raised the age of consent from 10 to 12 years. It was a measure of reform initiated by Mr. Malabari but was opposed vigorously by Mr. Tilak and Pt. Sasadhar and was greatly resented by the orthodox people throughout the country. Another Act which aroused great resentment among Indians was the Official

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1. "The rout of Italy by Abyssinia is supposed to have added fire to Tilak's agitation in 1897." Garrat : An Indian Commentary, p. 134.
2. Pradhan : India's Struggle for Swaraj, p. 69.
3. *Ibid.*, p. 75.

Secrets Act, 1904. It extended the provisions of the Indian Officials Secrets Act of 1889 and Act IV of 1898 in two directions—one, to include in the offences punishable under the Act of 1889 not only disclosures of military secrets but also those relating to civil affairs; and, second, to include in the offences punishable under the Act of 1898 newspaper criticisms "likely to bring the Government or constituted authority into suspicion or contempt." The Act of 1898 had defined sedition as exciting or attempting to excite "feelings of disaffection towards Her Majesty or Government established by law in British India" and had inserted a new Section 153A in the Indian Penal Code "to punish those who were found guilty of promoting enmity between classes."

Indians also resented greatly the policy which Lord Curzon pursued on the frontier and towards Afghanistan and Tibet. They did not like the extension of British Imperialism and the heavy increase in the military expenditure. For the same reasons they were against the despatch of Indian troops to China and South Africa. Indians strongly resented the employment of their troops to further British imperialistic designs.

Unpopular as these measures and policies were they would have been insufficient by themselves to create the anti-government movement in 1905 and the succeeding years had it not been for the stupid and mischievous persistence of the Government of Lord Curzon in carrying out the Partition of Bengal amidst universal protests.

III

The Partition of Bengal was effected on October 16th, 1905, ostensibly for reasons of administrative convenience and efficiency. It is true that the Province of Bengal, with its 80 million inhabitants, was too big a charge for a single head and that too a mere Lieutenant-Governor. But, it must be remembered, that Bengal included in it, at that time, a large number of non-Bengali people—Bihar and Orissa alone accounted for 21 million people. The needs of administrative efficiency could surely have been met—as was done six years later—by separating the non-Bengali speaking parts from Bengal proper. But the partition enforced divided Bengal into two parts—Bengal proper with only 18 million Bengalies out of a total population of 54 millions; and Eastern Bengal and Assam, with a total population of 31 millions out of which 25 millions were Bengalies and as many as 18 millions Mohammedans. It would thus appear that the motive behind the partition was not really administrative convenience but was much more sinister. As pointed out by Lord Ronaldshay, "the intelligentsia of the province" interpreted it "as a subtle attack upon the growing solidarity of Bengali nationalism."[1] And it is clear from the manner in which the Partition was planned, worked out and actually enforced and

1. Ronaldshay: Life of Lord Curzon, Vol. II, p. 332.

also from the speeches delivered by Lord Curzon in its support that the real motive was to divide the people on the basis of religion and to create disunion and enmity beween the Hindus and the Muslims in pursuance of the imperialistic policy of divide and rule. Writes Mr A. C. Majumdar :—"Fully resolved to crush the new spirit by dividing the people against themselves, Lord Curzon proceeded to East Bengal and there at large meetings of Mohammedans, especially convened for the purpose, explained to them that his object in partitioning was not only to relieve the Bengal administration, but also to create a Mohammedan province, where Islam could be predominant and its followers in the ascendancy....."[1] Supporters of the Partition have attributed Indian opposition to it to the fear of the professional classes—lawyers, politicians and newspaper men—of material and political disadvantages resulting from the Partition[2] but have ignored that "it was sentiment that gave the movement the force it ultimately acquired,"[3] to use the words of Lord Ronaldshay. As pointed out by Mr. Nevinson : "the root of the indignation is sentiment.....And just because it is a sentiment no material advantage or convenience of administration can ever serve as a compensation for the wrong."[4] It is, therefore, not true that most of the supporters of the agitation were dominated by material considerations. On the other hand the motive force in the vast majority of cases was the desire to preserve the sense of unity and nationality among the people. However, it is a fact that a large number of Mohammedans of East Bengal were won over by the arguments used by Lord Curzon and by visions of the prizes awaiting them in the new Mohammedan-majority province. Nonetheless, the bulk of the people, not only in Bengal but throughout the country, vehemently opposed the Partition and there followed a stupendous agitation in its wake, which was, on the whole, carried on in a disciplined and organised fashion.

IV

Another factor that increased discontent against the Government and was a contributory cause of the rise of new nationalism during the first decade of the 20th century was the influence of national calamities, like famine and plague and the measures adopted by the Government to combat them, combined with the anti-national economic policy pursued by the Government.

The famine of 1896-97 has been described as "the most intense and severe famine ever then known under British rule. By the spring of 1897 over four million people were receiving relief, and mortality was extremely heavy."[5] The Government machinery for

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1. A. C. Majumdar : Indian National Evolution, p. 207.
2. See Frazer : India Under Curzon and After, p. 384 and Ronaldshay: Life of Lord Curzon, Vol. II, p. 332.
3. Ronaldshay : Life of Lord Curzon, Vol. II, p. 332.
4. Nevinson : The New Spirit in India, p. 172.
5. Frazer : India Under Curzon and After, p. 4.

relief and revision of revenue was slow in moving and there were terrible sufferings and hardships. They were accentuated by the outbreak of a new, loathsome, epidemic—bubonic plague—in the Bombay Presidency. By the end of 1898, "the recorded number of deaths.....reached a total of 1,73,000, which was probably considerably below the real mortality." The measures adopted by the Government were vigorous but the methods of enforcing them were unwise. The Plague Commissioner of Poona, Mr. Rand, employed British soldiers for the purpose, who went into the houses, examined men, women and children and took them to isolation hospitals if there was any sign of plague. This infuriated the people. Riots broke out. There were strong writings in the Press and a sensitive young man shot the unpopular Plague Commissioner, Mr. Rand; and, his associate, fearing immediate discovery, shot Lt. Ayrest, who was following Mr. Rand in a carriage. This was followed by stern repression and agitation—especially in Maharashtra.

A strong wave of discontent was prevailng in the country, and, as ill-luck would have it, rains failed in 1899 and there was again a very severe famine in India in 1899-1909—a famine even more severe and affecting a much larger number of people than in 1896-97.

Such terrible calamities and sufferings could not but produce grave discontent and the government came in for a large share of blame. The people attributed their sufferings to the anti-national economic policy pursued by the Government and they became very bitter against their foreign rulers.

It is not possible to exaggerate the importance of the part played by the anti-national economic policy of the Government in creating and intensifying hatred of British rule in the minds of the people. The impoverishment of the people brought about by foreign rule was driven home during this period as never before by the researches and writings of men like Dadabhai Naroji, Romesh Chandra Dutt, Ranade, D. N. Wacha and Sir William Digby—and in spite of the attempt of Sir Theodore Morrison to counteract the theory of economic drain, it became very popular as it was supported by the leaders of thought in India and by the Indian Press. The anti-national economic policy followed by the British Government in India also undermined faith in the sense of justice and fairplay of the foreign rulers and accentuated anti-British feelings among the people.

As stated already Lord Curzon had believed in the gospel of efficiency—in centralisation and officialisation and in discouraging self-government and Indianisation. In 1904 he justified the exclusion of Indians in a particularly offensive manner. It was a sort of open challenge to the people who were told that as it was British rule "the highest ranks of civil employment—must as a general rule be held by Englishmen", who possessed "partly by heredity, partly by upbringing, partly by education, the knowledge of the principles

of government, the habits of mind, the vigour of character which are essential for the task" of Government. This challange was accepted by some of the educated Indians who began to organise for the ending of British rule in India.

In this connection attention may be drawn to a few, important, and specific economic issues in which the Government of India shamelessly sacrificed Indian interests to promote British commercial, industrial and financial interests. In 1894 there was again a revival of the Cotton Duties Controversy and a great agitation over the exemption of cotton goods from the 5% general import duty, the levying of which was necessitated by financial considerations. The Secretary of State tried to solve the difficulty by proposing to include imported cotton goods in the new tariff schedule and levying an equivalent, countervailing excise duty on Indian-made yarn of counts over 20. Two measures giving effect to the proposal were passed in December 1894 amidst Indian opposition. But even this did not satisfy Lancashire ; with the result that in 1896 two new measures were enacted reducing the import duty on cotton goods to 3½% and imposing a direct excise duty of 3½% on all cotton piece-goods woven by the Indian mills. As was pointed out by Sir James Peile and Sir Alexander Arbuthnot—who protested against these indefensible Acts in the India Council—the excise duty was not really countervailing as "the Indian mill-cloth coexisted, but did not compete with the Lancashire fine goods". There was strong agitation in the country producing great bitterness and hatred of English rule.

Indian trade was still further handicapped by the management of Indian currency and exchange in the interest of England. Indian criticism has been summed up thus by an Indian writer—"These criticisms were chiefly directed at the investment of the Gold Standard Reserve in securities instead of keeping it in gold in India ; at a raid on that Reserve in order temporarily to relieve the Government of the difficulty of financing its railway expenditure ; at the transfer of a solid block of Paper Currency Reserve from India to London ; at the holding of a portion of the Gold Standard Reserve in silver .....; and at the unlimited sales of Council Bills at rates which prevented the free flow of gold to India, thus forcing token rupees into circulation in quantities in excess of the requirements of the country. The cumulative effect of this policy was to transfer from India to London an immense block of India's resources, aggregating over seventy millions, where they were lent out at a low rate of interest to the London bankers, whilst India was starved of money until at one point money was not available for loans even against government securities and the Bank rate was artificially high."[1] There was naturally strong resentment in India and the Indian mercantile community lost all confidence in the Government of the country.

1. Indian Year Book, 1931, p. 860

V

The fifth factor responsible for an increase in anti-British feelings and for the rise of new nationalism in India was the race-conscious, arrogant behaviour of Anglo-Indians towards the people of the country and the anti-Indian attitude and propaganda on the part of the Anglo-Indian press. There took place in this period as well a number of cases of criminal assault by British soldiers and other British residents—in some instances resulting in the death of the poor Indian victims—but in which the white culprits escaped with no, or proportionately very light, punishment. Lord Curzon was quick to realise the immense harm these cases were doing to the continuance of British rule in India and he tried to bring the offenders to book whenever cases came to his notice. He wrote to the Secretary of State while reporting a case in which the culprits were responsible for the death of two Indians. "I do not know what you think of these cases. They eat into my very soul."[1] For purposes of illustration attention may be drawn to two unfortunate cases. In the first case several soldiers of a British battalion "outraged a native woman to death, not only was punishment not meted out, but the military authorities on the spot showed a culpable disposition to hush the whole matter up, and were seconded in their attempt by the apathy of the local civil officials."[2] In the second case an Indian cook was beaten to death "for having refused to procure a native woman for them" by two troopers of a famous cavalry regiment, the 9th Lancers, at Sialkot, in 1902. In the first instance no action was taken—even on Lord Curzon's intervention nothing more than some disciplinary action was taken.

Unfortunate as these crimes and murders were, still worse was the encouragement offered by Englishmen and the Anglo-Indian Press to such criminal conduct. Indeed, the part played by the Anglo-Indian Press in creating feelings of racial bitterness and hatred was most reprehensible. Important papers like the *Civil and Military Gazette*, Lahore, openly abused[3] educated Indians. They incited Anglo-Indians to commit acts of crime without incurring penalties prescribed by laws. When the attempt to shoot the unpopular magistrate, Mr. Kingsford, was miscarried and resulted in the death of two English ladies the *Asian* of Calcutta wrote—"Mr. Kingsford has a great opportunity, and we hope he is a fairly decent shot at short range. We recommend to his notice a mauser pistol... ...We hope Mr. Kingsford will manage to secure a big 'bag' and we envy him his opportunity. He will be more than justified in letting daylight into every strange native approaching his house or his person.....".[4]

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1. Ronaldshay : Life of Lord Curzon, Vol. II. p. 246.
2. *Ibid.*, p. 71.
3. Educated Indians "were spoken of as 'babbling B. A.'s', 'Base-born B.A.'s', 'an unhonoured nobility of the school', 'serfs', 'beggars on horse back', 'servile classes', 'a class that carries a stigma', and so on." See Nevinson : The New Spirit in India, pp. 17-8.
4. *Ibid.*, p. 229.

Such writings by the Anglo-Indian papers without suffering legal penalties produced great bitterness and led some to commit acts of violence, Indians were also deeply hurt by the attacks made on Indian character from still higher quarters. In his Convocation Address to the Calcutta University in February 1905, Lord Curzon delivered a homily on the truthfulness of the West and the craftiness and wile of the East. He denied that there was such a thing as "any Indian Nation." There was a storm of indignation throughout the country and protest meetings were held in all parts of India. And the sentiments expressed by the Viceroy turned many a Bengali youth into an extremist.

Anti-British feelings in India were greatly strengthened by the treatment meted out to Indians in South Africa. Indians had originally gone to South Africa as indentured labourers—but in their wake had followed men of the merchant and professional classes. Moreover, in the Boer Colonies particularly, all Indians were treated as social out-castes. Poll tax was levied on them. They could only live in prescribed "locations" outside the town where they had "to reside—amongst dungheaps."[1] In some of the colonies "they might not walk on foot-paths, nor travel in first or second class railway carriages, nor possess native gold, nor be out after 9 p. m., nor travel without passes."[2] As a matter of fact, the conditions were so humiliating that they were included among the causes for quarrel with the Boer Republic by the British Prime Minister, who on one occasion said, that "these insults to our Indian fellow-subjects made his blood boil." However matters did not improve after the Boer War had ended in British victory but became actually worse. In 1907, Transvaal passed the Asiatic Registration Act requiring Indians to be registered by means of finger prints, as if they belonged to the criminal tribes. They refused to submit themselves to such insulting treatment and under the leadership of Mahatma Gandhi[3] started *Satyagraha*. They refused to be registered and thousands of Indians, including Gandhi himself, underwent terms of imprisonment. The struggle lasted for years and undermined the whole economic and civic life of the Indians."[4]

The situation in South Africa had its repercussions on the minds of the people in India. On the one hand, there was admiration of the heroic stand that Mahatma Gandhi and his followers were taking in South Africa. Public subscriptions were raised in aid of the *Satyagrahis*, and meetings were held in different parts of

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1. Besant : How India Wrought for Freedom, p. 280.
2. Thompson : The Reconstruction of India, p. 76.
3. Mr. Gandhi, as he then was, had originally gone to South Africa in a law suit in 1893. Finding the conditions of Indians critical in Natal he resolved to settle there. He founded the Phoenix Settlement near Durban, "where the settlers were to follow his ideal of the simple life close to nature and found an *Ashram*, a house of sanctity and peace." There he evolved the doctrine of *satyagraha*—of suffering fearlessly to contend against injustice, servitude and tyranny—for the sake of truth.
4. Kohn : History of Nationalism in the East, p. 401.

the country pledging support and sympathy to the Indian cause. On the other hand, there was indignation at the insulting treatment meted out to Indians in South Africa. Unable to distinguish between the Home Government and Governments in the South African Colonies, the people in India put the entire blame upon the British Government and there was a great increase in anti-British feelings in the country

VI

Besides the factors mentioned in the preceding sections above, there were also other factors which were making for a new life in the country at the beginning of the 20th century. As a result of the work of the schools and colleges ; of the agitation that was being carried on for several decades now by the Indian Press and by the Indian National Congress ; of the influence that was being exerted by the powerful religious personalities like those of Swami Dayanand, Swami Vivekanand and Mrs. Annie Besant ; and the work that was being done by various religious and other associations like the Arya Samaj, Rama Krishna Mission, Theosophical Society and the Servants of India Society, a new life was arising in the country. As a matter of fact, India was then witnessing a manysided renaissance ; new schools of arts were coming into existence ; Indian languages were being enriched by novelists like Bankim Chandra Chatterjee and poets and seers like Rabindra Nath Tagore ; boundaries of knowledge were being extended by the researches of men like Tilak and Bhandarkar ; there was revival of Indian music and of ancient learning and culture ; and above all there was a new sense of pride and glory in the achievements of their forefathers, especially in the spheres of philosophy and religion. This created a revulsion of feelings against things Western—against Western dress, Western education and thought and Western ways of living. It gave rise to love of things Indian and Indian methods of living and thought in the country. There was a new sense of patriotism and nationalism abroad. Indeed the national movement in 1905 derived its inspiration mainly from religious revival in the country. The mainspring of the action of important leaders—Tilak, Arabindo and Barindra Ghose, Bipin Chandra Pal and Lajpat Rai—was religion. Among all the leaders of the period the person who typified the spirit of the time was Arabindo Ghose—who shot into the political firmament and also disappeared from it like a rocket. To him nationalism was "far more than a political object or a means of material improvement. To him it was surrounded by a mist of glory, the halo that mediaeval saints beheld gleaming round the head of martyrs."[1]

VII

The last factor that was responsible for the rise of the new national movement in 1905 was the discontent that the younger men in the Congress began to feel against the method of "political

1. Nevinson : The New Spirit in India, p. 226.

mendicancy." The Government of India under Lord Curzon, by ignoring the voice of the Congress and by heaping insults on educated classes and the great national organisation, turned the younger nationalists into extremists. Younger men lost faith in the integrity and sense of justice of the British. They came to believe that it was impossible to gain any concessions by petitions and prayers. The new nationalists regarded foreign rule in itself an evil and they believed in self-reliant, independent action and not in the philanthropy and generosity of the British. And they chalked out their own programme—consisting of the boycott of foreign goods and of British institutions; and of *Swadeshi* and the establishment of indigenous, national institutions.

VIII

The new spirit made itself manifest at the Benares Session of the Congress held in X-mas 1905. At the 1904 session a deputation, under the leadership of the President of the year, Sir Henry Cotton, was appointed to wait upon the Viceroy and present to him the resolutions passed at the session. But Lord Curzon refused to receive the deputation and characterised Congress activities as the mere letting off of 'gas'. It was, therefore, decided to send a Congress deputation, consisting of Mr. Gokhale and Lala Lajpat Rai, to England to place Indian grievances before the British public.

The old Congressmen had lost all faith in the sense of justice of the British bureaucracy in India; but they still cherished a strong faith in the inherent soundness and sense of fair play of the British statesmen and the people. And from the beginning they had attached importance to Congress work in England. In 1889, the British Committee of the Congress was established and Rs. 45,000 was voted for its maintenance. In 1893, a British Parliamentary Committee was organised to press the cause of India in the House of Commons. A weekly journal "India" was started in London to furnish correct information to the people and Members of Parliament in Britain. The Congress sent deputations of leading Indians to England from time to time to educate and influence British public opinion. The first deputation, including Surendranath Bannerjee, was sent in 1889 and another in 1890. And again a deputation went to England, as stated above, in 1905. But its members—at least one of them—came back sadly disillusioned. They found that the people in Britain were too busy with their own affairs "that the British Press was not willing to champion Indian aspirations, that it was hard to get a hearing in England....."[1] And he told his countrymen assembled at Benares in X-mas 1905 that if they wanted to win freedom they had to depend upon themselves alone.

The message of Lala Lajpat Rai struck a responsive chord in the hearts of young India assembled at the Benares Session of the Congress. The Partition of Bengal had by then become an accom-

1. Lajpat Rai : Young India, pp. 169-70.

plished fact and the *swadeshi* and the boycott movements had already been launched. In the Subjects Committee there were important differences. But compromise was reached by the concession of "the principles for which the Nationalists stood". An open conference was held in the Congress camp by the younger delegates, at which a New Nationalist Party came into existence, though it decided to remain within the Congress, with a programme of passive resistance and national reconstruction.

The Congress of 1905 put forward again, for the first time after 1892, a demand for political reforms including Indian representation in the House of Commons and appointment of Indians on the India Council, Viceroy's Executive Council and the Executive Councils of Bombay and Madras.[1]

The Congress of 1906 marks another landmark in the history of the national movement; because it was at this session that the ideal of *Swaraj* was first proclaimed by the president, Dadabhai Naoroji, who had been specially called from England at the age of 82 to preside by the Moderates—mainly to prevent[2] Mr. Tilak from becoming the President. A split was feared but the tact of Dadabhai and the force of public opinion—which took the Moderates very near the Extremists—averted the catastrophe. The resolutions adopted on *Swadeshi*, Boycott and National Education were regarded by the Moderates as going too far and it was on their attempt to get them modified that in reality the Congress broke down next year at Surat. It is not necessary to enter into the controversy as to who was responsible for the break-up of the Surat Congress in X-mas 1907—the differences between the two wings were too vital to be settled by mere change of words. Each party—one conscious of the strength of its own majority and the other believing in its future and the support of public opinion—was bent upon having things in its own way. Under these circumstances a split was inevitable. All negotiations failed and the Congress broke up amidst riotous and most regrettable scenes of disorder[3] on December 27th, 1907.

The Moderate leaders—with a following of 1,000 out of 1600 delegates—called a Convention, which met on the 28th December,

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1. Resolution II of the Congress of 1905; Besant: How India Wrought for Freedom, pp. 432-33.

2. Athalye: Life of Lokmanya Tilak, p. 151.

3. On the 27th December, when the Congress Session opened and the President after his formal election took the Chair, Mr. Tilak stood up to move an adjournment motion for which notice had been given the previous day. Leave was refused by the Chair but Mr. Tilak did not leave the platform. Young moderates stood up to pull him down by force. Suddenly a Marhatta shoe was thrown on the platform, which hit Surendranath Bannerjee and Pherozeshah Mehta and there rushed forth men, hissing with fury and brandishing long sticks and hitting any head they recognised as that of a moderate. "The Indian ladies vanished. The platform leaders withdrew.....Mr. Tilak was borne off by his followers.....But in the Pandal raged a tumult and a bloody riot. Chairs flew as missiles, long sticks clashed and shivered; blood flowed from broken heads." Ultimately the police entered and cleared the Pandal. See Nevinson: The New Spirit in India, pp. 256-59.

1907, under police protection in the Congress Pandal. About 900 delegates, including Lala Lajpat Rai, were present. A committee of "over a hundred .....leading Congressmen" was appointed to draw up the Congress Constitution. The Constitution as drawn up in 1908 affirmed its faith in the old methods of Congress work and in the achievement of the ideal of self-government by constitutional means—by "a steady reform of the existing system of government".

The resuscitated Congress met at Madras in X-mas 1908 with 606 delegates under the presidentship of Dr. Rash Behari Ghosh. It continued its work on the old lines, meeting in X-mas each year at an important urban centre in the country and asking for political reforms and improvement in the economic and social conditions of the people.

13

THE INDIAN NATIONAL MOVEMENT: CONSTITUTIONAL AND REVOLUTIONARY

I

The beginnings of a popular movement in India were made in Maharashtra in the nineteen of the nineteenth century under the inspiration and leadership of Lokmanya Bal Gangadhar Tilak.

Mr. Tilak was described by Sir Valentine Chirol as "one of the most dangerous pioneers of disaffection" and "to be truly the Father of Indian Unrest."[1] Translated into the language of Indian nationalism it meant that Mr. Tilak was "the Prince of Patriots" and the real founder of the popular anti-imperialist movement in India. Tilak was born with a burning love for his country and her people and his heart bled at the sight of so much suffering, misery, degradation, poverty and ignorance which he found prevailing in the country and he tried to relieve them to the best of his abilities. He hated still more the foreign, western outlook of the people and he did all he could to revive love for Hindu religion and things Indian. He was proud of the ancient glories of India and of the achievements of the Indo-Aryans and he wanted to raise the status of India to new and undreamt of heights. He held foreign rule as in itself evil and was convinced that British rule in India was responsible to no small extent for India's sorry plight. In politics he believed in the adage—that the end justified the means—and he considered all means fair for winning freedom for the country. Mr. Tilak was a clever and an astute politician and a born journalist. He was a great fighter and a dangerous and a determined opponent. He knew the material on which he had to work and he made good use of his knowledge. He utilised the Hindu gods and heroes to instil a new life and a new spirit in the people. By organising the Hindu youth in Maharashtra in anti-cow killing societies, Hindu *Akharas* and *Lathi* Clubs he tried to infuse in them a new and a manly spirit and made them brave, sturdy soldiers in the service

1. Chirol : Indian Unrest, pp. 40-41.

not only of Hindu religion and society but of the Motherland as well. He wanted the people to become strong and manly, courageous and fearless, independent and self-reliant—and he tried to spread this gospel of self-help and of independent self-reliant action among the people through the platform and the press. He had planned out his path early in his life and with a rare perseverance, sense of devotion and self-sacrifice, with cool courage and calm determination, unmindful of difficulties and sufferings, he followed it unflinchingly. And though he suffered greatly—he was thrice in prison for his convictions, the last time for six long years—he succeeded to a very large extent in his mission and he won for himself the crown of martyrdom and of public esteem—and he brought his country to the threshold of freedom.

To return to the beginnings of the first popular movement in India, Mr. Tilak started in 1893 the celebration of the Ganpati festival with a view to utilising the religious instincts and beliefs of the people and to instil in them a spirit of manliness, discipline, organised action and patriotism. School and college boys were inspired to take part in the celebrations and these celebrations were exploited for purposes of political propaganda. They became very popular with the masses and the youth of Maharashtra and served a valuable means of political education in the province.

Satisfied with the success of the Ganpati festival Mr. Tilak inaugurated the Shivaji festival in 1895. The object in this case was more directly political. By placing before the youth the example of their national hero Mr. Tilak wanted to stimulate them to patriotic action. And he was successful in his attempts. Shivaji's festival aroused great enthusiasm among the Maharashtra youth and the masses and many of them were fired with the ambition to serve their Motherland in the way in which Shivaji had done in his own times.

On the occasions of these festivals processions were taken out, volunteers exhibited their skill in fencing with sticks, meetings were held, national and religious songs were sung, *Kathas* and poems were recited and political speeches were made. And although Tilak himself did not preach sedition or violence he did nothing to stop others from inciting the people against the foreign government or from preaching revolution and violence. The two Chapekar Brothers were revolutionaries and utilised the festivals for preaching race hatred and violence. The poems or *Shlokas* recited by them incited the masses to do acts of violence—"Listen. We shall risk our lives on the battlefield in a national war ; we shall shed upon the earth the life blood of the enemies who destroy our religion ; we shall die after killing only....." "Alas, you are not ashamed to remain in servitude.....the wicked in their monstrous atrocity kill calves and kine ; free her from her trouble ; die, but kill the English ...this is called Hindustan, how is it that the English rule here."[1]

1. Sedition Committee (Rowlatt) Report, 1918, p. 2.

These poems were recited when there was great distress and discontent in the province caused by famine and the outbreak of the plague. To relieve the economic distress Mr. Tilak had organised voluntary help. He also carried on propaganda for the non-payment of land dues when the peasants were not in a position to pay. He appealed to the people to be brave and not be afraid and refuse to pay if they could not afford to do so. He asked the people to remain peaceful and exerted his influence to prevent food riots. Similarly when plague broke out in Poona, with commendable courage and spirit of service and at great personal risk, he organised a plague hospital and remained in the city to render whatever service was possible to the people. All the same the sufferings of the people were colossal and the discontent went on increasing. This provided a favourable atmosphere for the growth of anti-British feelings and for the success of anti-government propaganda among the people.

Damodar and Bal Krishan Chapekar (the two Chapekar Brothers) had founded an association, called the "Society for the removal of obstacles to Hindu religion," in Poona in 1895, originally for physical and military training, but soon after it became revolutionary. For the shooting of Mr. Rand, the unpopular Poona Plague Commissioner, and Lt. Ayerst "Damodar Chapekar was tried and convicted of the double murder."[1] The Society founded by the Chapekar Brothers was also responsible for other acts of violence. Damodar Chapekar had confessed to having tarred Queen Victoria's statue at Bombay with the help of his brother ; and "four members of the...association were hanged and one was sentenced to 10 years' rigorous imprisonment" for attempting to shoot a chief constable at Poona and for murdering "two brothers who had been rewarded by the Government for information which led to the arrest and conviction of Damodar Chapekar."[2]

The shooting of Mr. Rand and Lt. Ayerst caused a consternation in Anglo-Indian circles and the Anglo-Indian press began to call for the gagging of the Indian press and for the prosecution of Mr. Tilak who was held responsible by them for at least the creation of the atmosphere which had resulted in the double murder. Mr. Tilak's paper, the *Kesari*, was carrying on a vigorous propaganda against the employment of British soldiers in enforcing sanitary measures on an unwilling and irritated public. So were other vernacular papers like the *Kal*, the *Vaibhav*, the *Modavritta* and the *Pratod*. Moderate leaders who had left Poona, were also clamouring against the Government measures. Mr. Tilak's comment was that "mere clamour" was futile. This was interpreted by the Anglo-Indian press as an advocacy of violent methods. On the top of it all came the report of the speech delivered by Mr. Tilak on June 12, 1897, on the occasion of the Shivaji festival, in which he had justified the murder of Afzal Khan by Shivaji and which was regarded by

1. Sedition Committee (Rowlatt) Report, 1918, p. 3.
2. *Ibid.*, p. 4.

Anglo-Indians as a direct incitement to the Chapekar Brothers to commit the double murder.

In his speech on the 12th June, 1897, Mr. Tilak had enunciated the view that "great men are above the common principles of morality.....The Divine Krishna's teaching in the Gita tells us we may kill even our teachers and our kinsmen, and no blame attaches if we are not actuated by selfish desires. Shivaji did nothing from a desire to fill his own belly. It was in a praiseworthy object that he murdered Afzal Khan for the good of others. God had conferred on the *mlechhas* no grant of Hindusthan.....Do not circumscribe your vision like frogs in a well. Rise above the Penal Code into the rarified atmosphere of the sacred Bhagwad Gita and consider the action of great men."[1]

The Anglo-Indian agitation was successful. Mr. Tilak was arrested on 27th July, 1897, and so were the printer of *Kesari* and the editors of Poona *Vaibhav*, the *Modavritta* and the *Pratod* The two Natu Brothers, two leading and wealthy landlords of the Deccan, suspected to be in touch with the political movement in the province, were deported under Regulation XXV of 1827 and their property was confiscated. There was great stir and resentment in the country.

The case against Mr. Tilak was tried by a young English judge. Mr. Justice Strachey, with a special jury of nine, of whom six were Europeans unacquainted with the Marathi language. The charge was one of sedition and had nothing to do with the murder of Mr. Rand and Lt. Ayerst, as stated by the Advocate-General. But in his directions to the jury the Judge appeared to have changed places with the Advocate-General, as was pointed out by the Calcutta paper *The Indian Mirror*. "Mr. Justice Strachey freely referred to the famine and the plague.....told about the employment of British troops not being liked by the people.....passed on to the Poona murders" and "without the least hesitation" declared that "the inevitable result was friction and such a state of tension and excited feeling that no wonder it ultimately culminated in the murders of Mr. Rand and Lt. Ayerst."[2] The verdict of the jury was "guilty"—6 voting for and 3 against—and Mr. Tilak was sentenced to 18 months' rigorous imprisonment.

The conviction of Mr. Tilak caused widespread discontent. The behaviour of the judge was greatly resented. His definition of "disaffection" as simply "want of affection" caused a consternation in the minds of the public. Even the English paper *Daily Herald*[3] warn-

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1. Chirol : Indian Unrest, pp. 46-47.
2. Athalye : Life of Lokmanya Tilak, p. 99.
3. The comment of the *Daily Herald* was : "Wildness, discontent, mischievous rubbish there may be in plenty. But we have got on with it and we shall get on with it again. Prove real sedition—above all, conclusively connect it with crime—and we should all favour sharp, stern punishment. But when it comes to overhauling poems and constructing elaborate innuendoes from eulogies of picturesque and popular bandits.....one feels that the Government are on periblous path." Athalye : The Life of Lokmanya Tilak, pp. 99-100.

ned the Government. Sir Surendranath Bannerjee declared on behalf of the entire Indian Press "that in our heart of hearts we believe Mr. Tilak to be innocent of the charge brought against Mr. Tilak " for whom the nation is in tears."[1] The European Sanskrit Scholars were shocked—an influentially signed petition for clemency was got up by Prof. Max Muller and submitted to the Queen as a result of which the learned author of the "Orion" was afforded certain facilities for literary work at night in the jail and Mr. Tilak was released six months before the completion of his term.

II

The years 1899 to 1904 were years of stifled quietness in the political atmosphere in India—a quietness which presaged a storm, which burst out in the last quarter of 1905 and raged for the next four years, particularly in Bengal.

The signal for the storm was the Partition of Bengal in 1905. The scheme of the partition was promulgated in a Government Resolution dated July 19, 1905. It was put into operation on October 16th, 1905, in spite of the unprecedented opposition of the people all over India.

A public meeting was organised under the presidency of Maharaja Jatindra Mohan Tagore soon after the publication of the Government Resolution of July 19, 1905, which was attended by the leading public men in Calcutta including several Englishmen.[2] It decided to send a telegram to the Viceroy urging modification of the scheme of partition on the lines finally adopted in 1911, which would meet administrative needs but at the same time keep the Bengali-speaking people together. Lord Curzon was, however, adamant, because his motive was really not administrative but political, *i.e.*, to drive a wedge between the two communities and to crush the new spirit of nationalism in Bengal. The people were equally determined to resist and decided to carry on an organised agitation for the modification of the Partition. Public meetings were held all over Bengal to protest against the Partition and a grand remonstrance was organised at Calcutta in the Town Hall on August 7th, 1905. The crowd was so large that it had to be divided into three meetings—the Town Hall, upper and lower floor and the third in the Maidan near the Bentinck Statue. At these meetings a boycott pledge[3] was read out by Mr. Surendra Nath Bannerjee, who appealed to the people to sign it. Meetings on the model of the Calcutta Remonstrance were held all over the province where Swadeshi and boycott of British goods resolutions were passed and the Boycott pledge

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1. Athalye : The Life of Lokmanaya Tilak, p. 100.
2. Bannerjee : A Nation in Making, p. 188.
3. The pledge ran as follows :—"I hereby pledge myself to abstain from the purchase for all English made goods for at least a year from this date, so help me God." A Nation in Making, p. 213 and pp. 189-91.

was taken.[1]

In spite of the agitation the Partition as announced was effected on the 16th October, 1905, which day was observed all over Bengal as a day of national mourning. In Calcutta the programme on 17th October consisted of four main items : (1) the tying of a red thread round the wrists of men—*Rakhi-Bandhan*—as an emblem of union between the sundered provinces ; (2) the observance of *hartal* and fast ; (3) laying of the foundation stone of a "Federation Hall" where, on the analogy of the *Hotel des Invalides* in Paris, there were to be the "statues of all the districts in Bengal, those of the sundered districts being sur ud d until the day of the reunion,"[2] as those of Alsace and Lorraine in Paris ; and (4) the inauguration of the National Fund for the purpose of helping the weaving industry by Surendranath Bannerjee in a public meeting in the evening, when Rs. 70,000 were collected on the spot.

Although the Partition became "a settled fact, "and the new Province of Eastern Bengal and Assam came into existence with its capital at Dacca and Sir Bampfylde Fuller as its first Lieutenant-Governor, the agitation against the Partition continued with unabated vigour. Leaders like Surendranath Bannerjee and Bipin Chandra Pal toured throughout the new province and addressed huge meetings and administered Swadeshi and Boycott vows. Intensive propaganda was carried on through the nationalist press. From the two Bengals the movement spread to the other provinces. The Congress in 1905 sanctioned both the political boycott and the economic *Swadeshi*. In 1906 it reiterated its sanction in still stronger language. The twin movements achieved considerable success. Imports of cotton and other British goods went down and the weaving and other industries received a great impetus.[3] The Boycott and the Swadeshi movements became very popular particularly with young men in schools and colleges. Students were permeated with the new nationalist spirit. They attended in large numbers anti-partition meetings, took Boycott and Swedshi pledges, sang *Bande Matram* and other patriotic songs, shouted national cries enthusiastically and made *Bande Matram* their common salutation. They enrolled themselves as volunteers for national service and picketed foreign cloth shops. Some of them committed excesses in their enthusiam but they were also goaded to extremism by the reactionary, repressive and patently invidious policy of the new administration of Eastern Bengal. The Swadeshi meetings were broken up by force ; the issuing of Swadeshi circulars was stopped. Preachers of Swadeshi

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1. Between July 20th and 26th October some 2,000 meetings were held in different parts of Bengal, where the Boycott pledge was taken.

2. S. Bannerjee : A Nation in Making, p. 213.

3. The Report on the Administration of East Bengal 1905-06 records a considerable increase in factories and a decrease of 16 per cent in foreign imports. During one month—May 1907—*The Times*, London, reported that Indian imports of Manchester piece-goods went down by 42,492,500 yards. See pp. 181-82. Nevinson : The New Spirit in India.

like Aswini Kumar Dutt were harassed and accused of sedition. Picketers were arrested and punished and for small technical offences "exemplary" punishments were meted out. "In one case, four youths destroyed foreign sugar valued at 1*s*. 2*d*. and were sentenced to three and four months' imprisonment, with heavy fines."[1] Circulars were issued by District Magistrates to heads of educational institutions, in which they were told that unless they and their teachers prevented their pupils from participating in the movement "the schools and colleges would forfeit their grants-in-aid and the privilege for competing for scholarships, and the University would be asked to disaffiliate them."[2] The Calcutta *Statesmen* condemned the Circular pointing out that it "can only have the effect of manufacturing an army of martyrs."[3] Adds Sir Surendranath : "But circular after circular followed, each one adding to the prevailing excitement and aggravating the evil it was intended to cure."[3] Perhaps the most ridiculous of them was the *Bande-Matram* Circular issued by Sir Bampfylde's Government which declared the shouting of *Bande Matram*[4] in public streets to be illegal. The Government went to extreme lengths in enforcing this Circular. "The climax was reached when the police assaulted the delegates of the Bengal Provincial Conference at Barisal in April 1906, and forcibly dispersed the Conference."[5] Protest meetings were held all over India. At one of them—in Calcutta—Rai Narendra Nath Sen remarked that the only result of such repression would be to convert young men to anarchism. The Madras meeting asked the Secretary of State to intervene and punish "the officers responsible."[6]

However, the Government of Sir Bampfylde Fuller did not change its ways. It not only persisted in its policy of repression but also pushed forward its policy of dividing the people and favouring the Mohammedans. Sir Bampfylde employed all kind of means to win the favour of the Moslems and to isolate the Hindus in the anti-partition agitation. A loan of £100,000 was given to Nawab Salimulla of Dacca, who had considered the Partition at first as a "beastly arrangement" to win his support. "A large portion of government posts were set aside for Mohammedans, and some were even kept vacant because there were no Mohammedans qualified to fill them."[7] It was against the Hindus only that all the petty persecution of officialdom was directed. It was they who were excluded from government posts, it was Hindu schools from which Government patronage was withdrawn. When Mohammedans rioted, the punitive police ransacked Hindu houses and companies of little

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1. Nevinson : The New Spirit in India, p. 185.
2. Bannerjee : A Nation in Making, p. 204.
3. *Ibid.*, p. 205.
4. A European official interpreted *Bande-Matram* as "an invocation to Goddess Kali for vengeance." *Ibid.*, p. 205.
5. *Ibid.*, p. 219.
6. *Ibid.*, p. 232.
7. Nevinson : The New Spirit in India, p. 192.

Gurkhas were quartered on Hindu population."[1] The Lieutenant-Governor put this in a jocular form when he said that of his two wives the Mohammedan was the favourite. "The Mussalmans genuinely believed that the British authorities were ready to forgive them all excesses."[2] Muslim priests went about proclaiming that "no penalty would be exacted for violence done to Hindus or for the loot of Hindu shops or for the abduction of Hindu widows. A Red Pamphlet was everywhere circulated maintaining the same wild doctrines."[3] Riots broke out at many places—in Comilla, Jamalpur, and Dacca. At Dacca "for three days and nights the Moslem mob ruled and looted to their heart's content the rich Marwari jewellers.[2] Mr. Nevinson, who toured East Bengal shortly after, describes the result of these riots thus—"A few lives were lost, temples were desecrated, images broken, shops plundered, and many Hindu widows carried off. Some of the towns were deserted, the Hindu population took refuge in any "pucca" houses....., women spent nights hidden in tanks, the crime known as "group rape" increased, and throughout the country districts there reigned a general terror which still prevailed at the time of my visit."[4]

The results of the unfortunate policy pursued by the Government of Sir Bampfylde Fuller were disastrous. "A religious feud was established in Bengal."[5] The Government tried to shift the responsibility for this fued on the Boycott Movement and on the Hindu volunteers, who tried to protect the Hindu widows and other poor victims of the Muslim mob fury—but without success. Evidence in the riot cases clearly proved that the chief cause of the religious feud was the belief that Government was on the side of the Moslems and that the Moslem rioters had nothing to fear from the Courts. Indeed the Government had gone very far in favouring the Mohammedans. The communal virus had spread to all branches of the administration and had even affected the judicial branch. In the great Comilla Rioting Case the judge had openly favoured the Muslims.[6] The Government excuse was that the Hindus were opposed to the Partition and that it was necessary to crush the anti-partition movement. The result was the rapid spread "of extremism" in Bengal. It gave rise to two new schools of nationalism—one

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1. Nevinson : The New Spirit in India, p. 202.
2. *Ibid.*, p. 191.
3. Mazumdar : Indian National Evolution, p. 235.
4. A European Magistrate in his report on a riot case wrote that "some Mussalmans proclaimed by beat of drum that the Government had permitted them to loot the Hindus." In an abduction case the same Magistrate remarked "that the outrages were due to an announcement that the Government had permitted the Mohammedans to marry Hindu widows in the *Nika* form." Nevinson : The New Spirit in India, p. 193.
5. *Ibid.*, p. 193.
6. Bannerjee : A Nation in Making, p. 218.—The High Court took strong exception to the conduct of the judge and censured him for his "preconceived sympathies" resulting in his "accepting the evidence of one class and rejecting that of the other."

constitutional, led by Arabindo Ghose and Bipin Chandra Pal ; and, the other, revolutionary, led by Barindra Kumar Ghose and Bhupendra Nath Dutt.

III

Mention has already been made in a previous chapter[1] of the rise of the New Nationalist Party and its principles and programme of work. India was also witnessing at this time a great Hindu revival under the inspiration of Vivekananda ; and the two new movements—the New Nationalist and the Hindu Revivalist movements—met and influenced each other. This was particularly the case in Bengal. As was pointed out by Sir Valentine Chirol :—"*Swadeshi* and *Swaraj* are the battle-cries of this new Hindu Nationalism, but they mean far more than a mere claim to fiscal or even political independence. They mean an organised uplifting of the old Hindu traditions, social and religious, intellectual and moral, against the imported ideals of an alien race and an alien civilization, and the sincerity of some, at least, of the apostles of this creed cannot be questioned. With Arabindo Ghose, they firmly believe that "the whole moral strength of the country is with us, justice is with us, nature is with us, and the law of God, which is higher than any human law, justifies our action."[2] Writes Mr. Bipin Chandra Pal :—"The re-awakening of national consciousness and aspirations in India .....has revived the ancient idealism of the Sakti Cult : and Durga, Kalee, Jagadhatree, Bhawanee and all the other great forms and symbols used by the Hindu Sakti-worshippers, have received a new meaning. All these old and traditional gods and goddesses who had lost their hold on the modern mind, have been reinstalled with a new historic and nationalist interpretation on the mind and soul of India."[3]

The leaders of the New Nationalist Party exerted a great influence on the minds of the people—particularly on the mind of the youth in Bengal. During 1906-08 the New Nationalist Party grew in strength and influence and greatly helped the Boycott and the *Swadeshi* movements. National equcational institutions were started under the auspices of the Party—the most important of which was a College at Calcutta under the Principalship of Mr. Arabindo Ghose. The Party carried on a vigorous propaganda both through the platform and the press. Through its organs *New India* and the *Bande-Matram*, Bipin Chandra Pal and Arabindo Ghose expounded in a powerful and an appealing language the principles of religious nationalism and the ideal of an independent India. Mr. Pal considered the ideal of Dominion Status as impractical. He said—".....Do you think it is possible for a small country like England.....to compete on fair and equitable terms with a mighty

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1. See Chapter XII, p. 132.
2. Chirol : Indian Unrest, p. 12.
3. B. C. Pal : The Soul of India, pp. 186-7.

continent like India ?.....and if the day comes when England will be reduced to the alternative of having us as absolutely independent people or a co-partner with her in the Empire, she would prefer to have us, like the Japanese, as an ally and no longer as a partner, because we are bound to be the predominant partner in this Imperial firm."[1] And he went on preaching with Arabindo Ghose the ideal of Independence to young India which must be won by their own efforts and not accepted as a gift from the British. The methods suggested by them at the time were *Swadeshi* helped by a rigorous boycott of British goods and passive resistance reinforced by the boycott of Government service. The last item distinguished them from the Moderate leaders like Surendranath Bannerjee, Aswini Kumar Dutt and Bhupendranath Basu. The New Nationalist Party preached boycott of government service and at the same time the setting up of a machinery for popular administration—parallel to but independent of the Government.

The Nationalist Party achieved considerable success during the first two years of its existence but the repressive policy of the Government ultimately made it very difficult for it to function. Moreover, the rise of the Revolutionary Party also eclipsed the Nationalist Party to a certain extent.

IV

Side by side with the propaganda of the New Nationalist Party revolutionary propaganda of a very vigorous and extreme type was being carried on by Barindra Kumar Ghose, younger brother of Babu Arabindo Ghose, and Bhupendra Nath Dutt, the only brother of Swami Vivekananda, through such powerful and popular organs as *Yugantar* (New Era) and *Sandhya* (Evening). And, as pointed out by the two moderate leaders, Sir Surendra Nath Bannerjee and Rai Narendranath Sen, the reactionary and repressive policy of the Government, especially after the break-up of the Barisal Conference in April 1906, drove the more sensitive and emotional spirits among the youth of the two sundered provinces to the path of terrorism and revolution.

Barindra Kumar Ghose had originally tried to preach "the cause of independence as a political missionary" in 1902 but without success. He again returned to Bengal in 1905 "convinced that a purely political propaganda will not do for the country, and the people must be trained up spiritually to face dangers." He started the *Yugantar* and through it carried on the political and religious instruction of the masses. He gathered a batch of 14 or 15 young men and trained them as workers in the cause. "We are always thinking of a far off revolution and wish to be ready for it....."[2]

In an article headed "The Age of Gita again in India" Barindar

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1. Chirol : Indian Unrest, pp. 13-14.

2. Statement of Barindra Kumar Ghose of May 22nd, 1908, before a Magistrate. See p. 20, Sedition Committee Report, 1918.

Kumar Ghose expounded his revolutionary gospel. "Sri Krishna had said in Gita that whenever there is a decline of righteousness and a rise in unrighteousness there shall be a reincarnation of God to rescue the good, to destroy the wrong-doer, and to establish righteousness." "At the present time righteousness is declining and unrighteousness is springing up in India. A handful of alien robbers is ruining the crores of the people of India by robbing the wealth of India. Through the hard grinding of their servitude, the ribs of this countless people are being broken to pieces .....Fear not, oh Indians. God will not remain inactive.....He will keep His word. Placing firm reliance on the promise of God, invoke His power.....When the lightening of Heaven flashes in their hearts, men perform impossible deeds."[1]

A six item programme was outlined to achieve the object. The first item was to arouse hatred of servitude in the minds of the educated people through a vigorous propaganda in the Press. The second item was to remove from their minds the fear of unemployment and starvation and to instil in them the love of freedom and of the Motherland. This was to be accomplished "by soul-stirring music and theatrical performances, glorifying the lives of heroes and their great deeds in the cause of freedom and by patriotic songs."[2] The third item was to keep the enemy busy with demonstrations and agitation—with *Bande-Matram* processions, Swadeshi conferences, boycott meetings, etc. The fourth and the most important item was to recruit young men, who were to be organised in small bands, trained in physical exercises, use of weapons, religious practices of the *Shakti* cult, revolutionary literature and in strict discipline and taught implicit obedience to rules and their leaders and to keep strict secrecy about their instructions and counsel. Fifthly, weapons were to be obtained in various ways—by manufacturing bombs, by stealing fire-arms, by purchasing them from foreign lands and smuggling them into the country. And lastly, money was to be raised for the purpose partly by donations and partly by force—by raids and dacoities. "The law of the English is established on brute force, and if to liberete ourselves we too must use brute force it is right that we should do so."[2] The youth of Bengal was exhorted to rise and destroy the alien rule :—"Will the Bengali worshipper of *Shakti* shrink from the shedding of blood ? The number of Englishmen in this country is not above one lakh and a half, and what is the number of English officials in each district ? If you are firm in your resolution you can in a single day bring British rule to an end. Lay down your life, but first take a life. The worship of the Goddess will not be consummated if you sacrifice your lives at the shrine of Independence without shedding blood."[3]

As a result of the work of Barindra Kumar Ghose and Bhu-

1. Quoted in Chirol : Indian Unrest, pp. 90-91.
2. Chirol : Indian Unrest, p. 93.
3. *Ibid.*, p. 94.

pendra Nath Dutt and others a number of secret, revolutionary societies were formed. Barindra Kumar Ghose and his "associates formed a body called the *Anusilan Samiti* (Society for the promotion of culture and training). One of these societies was soon in working order at Calcutta, the capital of Western, and another at Dacca, the capital of Eastern Bengal. At one time, the Dacca Society had 500 branches...".[1]

These societies were modelled upon the Russian and the Italian secret societies and an important item of their work was to plan and execute acts of terrorism. Since 1907 there have been a fairly large number of terrorist crimes committed by the Bengal revolutionaries. Perhaps the first of these act was the attempt to blow up the Lieutenant-Governor's train by a bomb near Midnapore on the 6th December, 1907. On the 23rd December, 1907, Mr. Allen, formerly District Magistrate at Dacca, was shot in the back, though not fatally, at a railway station in the district of Faridpur between Dacca and Calcutta.

With these two incidents the history of revolutionary crime begins in Bengal. But the event that created a great stir both in India and in England, in the early days of the movement, was the killing of two innocent English ladies, Mrs. and Miss Kennedy, by an unfortunate accident on April 30th, 1908. The revolutionary party had deputed two members, Khudi Ram Bose and Profulla Chakie, to murder Mr. Kingsford, the Judge at Muzaffarpur in Bihar. He was formerly the Chief Presidency Magistrate at Calcutta where he was supposed to have administered heavy punishment on young *Swadeshi* workers. "Especially odious had he become by inflicting corporal punishment upon more than one respectable young man."[2] The Revolutionary Party decided to murder him. They first tried a very ingenious method. They got hold of a book that was borrowed from Mr. Kingsford. They cut out the middle portion of the leaves of the book and inserted a bomb in the hollow thus created—with a spring to cause its explosion when the book was opened. They packed it and sent it to Mr. Kingsford who left the parcel unopened as he did not need the book immediately. It was eventually opened when the facts were later disclosed by a revolutionary some months after. This device having proved unsuccessful Khudi Ram Bose and Profulla Chakie were sent with a bomb to Muzaffarpur to accomplish the purpose. They saw a carriage coming from the direction of Mr. Kingsford's bungalow and believing that the occupant of the carriage was the unpopular judge they threw the bomb into the carriage with the result that the two English ladies were killed. Two days after, the perpetrators of the crime were arrested—one, Profulla Chakie at once shot him-

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1. Sedition Committee Report, 1918, pp. 21-22.

2. Bannerjee : A Nation in Making, p. 248. The case which sent a thrill of indignation throughout the country was that of Susil Sen, a young student of fifteen who was flogged at the triangle for being mixed up in a police fracas. See P. C. Ray : Life and Times of C. R. Das, p. 51.

self ; the other was tried. He made a public confession and was hanged. Writes Sir Valentine Chirol—"So, for the Nationalists of Bengal, he became a martyr and a hero. Students and many others put on mourning for him and schools were closed for two or three days as a tribute to his memory. His photographs had an immense sale, and by and by the young bloods took to wearing dhoties with Khudi Ram Bose's name woven into the borders of the garment."[1]

A couple of days after the Muzaffarpur murders there came to light a huge revolutionary conspiracy in Calcutta. On May 2nd were seized some bombs, dynamite, cartridges, and correspondence which led to the arrest and trial of some 39 persons including Babu Arabindo Ghose, his brother Barindra Kumar Ghose, Hem Chandra Das and Narendra Gosain—the last became the approver and was shot dead by his two companions in jail, Kanai Lal Dutt and Satyendra Nath Bose, with smuggled arms. These two men were separately tried. Both were committed and executed.[2] The remaining 36 were prosecuted for conspiracy to wage war against the King Emperor. The trial before the Sessions Court came to an end on the 13th April, 1909 and resulted in the acquittal of Babu Arabindo Ghose and a few others. Heavy punishments, however, were meted out to the other accused who appealed to the High Court, which finally decided the case, which is known as the Alipur Conspiracy Case, on February 12, 1910, when four men were sentenced to transporation for life, three to ten years', seven to seven years' and three to five years' rigorous imprisonment.

In connection with the Muzaffarpur and Alipur cases several other murders took place. As already mentioned the approver Gosain was shot in jail in September, 1908. Two months later, Sub-Inspector Nand Lal, who had arrested Khudi Ram Bose, was also murdered. On February 10, 1909, Mr. Ashutosh Biswas, the public prosecutor who had acted in both the Alipur and the Gosain Murder cases, was shot dead while leaving the suburban police court, Calcutta, and on January 24th, 1910, the Deputy Superintendent of Police, Mr. Shamsul Alam was shot dead while leaving the High Court buildings, where he was attending the hearing of the appeal in the Alipur Case.

The revolutionaries were strict in maintaining discipline in their ranks and wherever they smelled a traitor they dealt with him mercilessly. In November 1908 three betrayers were shot dead. The revolutionaries also tried to terrorise the police officers, trying magistrates, prosecuting lawyers and hostile witnesses, and they pursued their path fearlessly and unflinchingly. There were several murders and many dacoities—and neither the repressive laws and

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1. Chirol : Indian Unrest, p. 97.

2. Kanai Lal achieved almost as great a popularity as Khudi Ram Bose. When he and his companion's bodies were being carried from the jail to the cremation grounds fifty-thousand men lined the streets of Kalighat to take the dust of their feet. See P. C. Ray : Life and Times of C. R. Dass, p. 72.

heavy sentences nor the reforms of 1909 or even of 1919 made them desist from their decided course of action. However, to return to the period under review, the number of murders and dacoities went on increasing in 1908 and 1909.[1] On the 7th November, 1908, there was an attempt to shoot the Lieutenant-Governor of Bengal, Sir Andrew Fraser, who escaped without any hurt. The assailant was arrested, tried and sentenced to ten years' rigorous imprisonment.

V

During the years 1906-10 the revolutionaries were not only active in Bengal but also in some other provinces in India and abroad. As already pointed out, the revolutionary movement had originated in Maharashtra and was responsible for the double murder of Messrs Rand and Ayerst and the murders of the two brothers on whose information Damodar Chapekar was arrested and convicted. Outwardly there was absolute quiet in the Deccan after 1899 but secretly preparations were going on both [in Maharashtra and in London for the resumption of revolutionary activities. The leaders of the movement were Shyamji Krishna Varma and the Savarkar Brothers—Ganesh and Vinayak Savarkar.

It appears Shyamji Krishna Varma was somehow connected with the Rand murder and he quietly slipped away to London. Until 1905 he lived in obscurity but in January of that year he started the Indian Home Rule Society in London with a penny monthly organ, called the *Indian Sociologist*. With the co-operation of Mr. S. R. Rana, who had settled down at Paris, Shyamji Krishna Varma offered six lecturerships each of Rs. 1,000 and three travelling scholarships of Rs 2,000 each to enable Indian youngmen to go abroad for training themselves as national missionaries. One of the young men who thus reached London was Vinayak Damodar Savarkar, a graduate of the Bombay University from the Fergusson College, Poona. He and his elder brother Ganesh were leaders of a society called *Mitra Mela* which was started about 1899 in connection with the Ganpati celebrations. This society was transformed into a revolutionary association *Abhinav Bharat Society* (Young India Society) shortly before Vinayak Savarkar left for London in June 1906.

When Vinayak Savarkar reached London, Shyamji Krishna Varma was carrying on a vigorous revolutionary propaganda at the India House—the home of the Indian Home Rule Society. But he had to shift to Paris in 1907 as a result of inquiry made in the Parliament about his activities at the India House. He, however, kept himself fully in touch with the life of the Society in London and through Mr. S. R. Rana and the *Indian Sociologist* went on directing the work at the India House. In December 1907 he wrote in the Sociologist "It seems that any agitation in India must be

1. For a full list of revolutionary crimes till the end of 1917, see the Report of the Indian Sedition Committee, 1918.

carried on secretly and the only methods that can bring the English government to its senses are the Russian methods vigorously and incessantly applied until the English relax their tyranny and are driven out of the country....."[1]

From the time of his arrival in London Vinayak Savarkar began to take an active part in the work at the India House. He first rendered the autobiography of Mazzini into Marathi and sent it to his brother Ganesh, who got it printed in Poona from where it was issued to the public. Next he wrote a book on the Mutiny entitled "The Indian War of Independence, 1857", which became a sort of revolutionary text-book at the India House. Passages from it were read at the Sunday meetings where the policy of political assas:ination was systemetically advocated. The Mutiny Day was celebrated at the India House in May 1908, when two leaflets sent by Shyamji Krishna Varma entitled "Oh Martyrs" and "Grave Warning" were distributed to the visitors who were asked to send them separately to India. In June 1908, a lecture was delivered at the India House justifying the use of the bomb and explaining the methods of making them. About this time members of the India House began to practice revolver shooting at a range in London.

Gradually Vinayak Savarkar became the acknowledged leader of the group at the India House. He pushed ahead preparations for revolutionary work in India. In February 1909 he sent "a parcel of 20 Browning automatic pistols with ammunition..... to Bombay concealed in the false bottom of a box forming part of the luggage of one Chaturbhuj Amin, who had been employed as a cook at the India House."[2] The pistols were to be used by the members of the *Abhinav Bharat Society* which was working under the direction of Vinayak's brother, Ganash Srvarkar. But before the parcel reached India, Ganesh Savarkar had been arrested upon a charge of waging war against the King on March 2nd, 1909, and the parcel had to be received by a friend who had previously been taken into confidence.

The charge against Ganesh Savarkar was based upon "a series of inflammatory verses published early in 1908 under the title of *Laghu Abhinav Bharat Mela*" which preached, according to the judge of the Bombay High Court, who finally decided the case, the text, "take up the sword and destroy the Government because it is foreign and oppressive."[3] Ganesh was sentenced to transportation on the 9th June, 1909, and Vinayak was informed by cable of the sentence. "At the usual Sunday meeting of the India House on the 20th June Vinayak Savarkar was especially violent and repeated his oath to wreak his vengeance on the English."[4]

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1. Quoted in the Sedition Committee Report, 1918, p. 6.
2. Sedition Committee Report, 1918, p. 9.
3. *Ibid.*, p. 8.
4. *Ibid.*, p. 9.

News of the heavy sentences on the young men in Bengal affected the minds of the members of the India House. One of them, Mr. Madan Lal Dhingra, decided to send English blood as a humble protest against the inhuman transportations and hangings of Indian youths,[1] and on July 1st, 1909, shot Sir William Curzon Wyllie, the Political A. D. C. at the India Office, at a gathering at the Imperial Institute in London.[2] Dhingra was arrested and executed. The organisation at the India House came to an end. Vinayak Savarkar was arrested and sent to Bombay[3] where he was wanted for trial on very grave charges. He was later tried and sentenced to transportation for life.

In the meantime, the members of the *Abhinav Bharat Society*—it is suggested by Sir Valentine Chirol, on the instigation of Vinayak Savarkar decided to murder Mr. Jackson, the District Magistrate of Nasik, who had committed Ganesh Savarkar for trial, as a kind of retribution ; and on the 21st December, 1909, Mr. Jackson was shot dead by a young Brahmin from Aurangabad with one of the Browning pistols sent by Vinayak Savarkar from London. "For the murder of Mr. Jackson seven men, all Chitpavan Brahmins, were brought to justice and three of them were executed."[4]

In the course of investigations into the murder of Mr. Jackson, the police discovered what is called the Nasik Conspiracy Case in which 38 men were charged, out of whom 27 were sentenced to various terms of imprisonment. The Nasik Conspiracy was the work of the *Abhinav Bharat Society* of Nasik which was organised on the model of Russian Revolutionary Societies. The members were divided into several small groups in the various parts of Western India. Men in each group worked together ; they were bound by secret oaths ; and although they worked for the same object and drew weapons from the same source they had no personal acquaintance with the members of other groups. Ganesh Savarkar was their leader and Vinayak Savarkar was their guide, friend and philosopher. From London he supplied them with typed copies of instructions for the manufacture of bombs and with revolutionary literature. He also sent fire-arms from abroad and worked up their mind to commit acts of terrorism.

The *Abhinav Bharat Society* had ramifications even in the neighbouring States. There was a *New Bharat Society* in Gwalior, 22 members of which were prosecuted in 1909 for a conspiracy to wage war against the King Emperor. The case—Gwalior Conspiracy Case—was tried by a Special State Tribunal. Most of the accused were sentenced to various terms of imprisonment.

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1. From the statement of Dhingra found in his pocket at the time of arrest, quoted on p. 9, Sedition Committee's Report, 1918.

2. Dr. Lalkaka was also killed at the meeting.

3. On the way he escaped at Marseilles from the steamer and claimed protection under International Law, as a political prisoner on foreign soil, but was re-arrested and taken to the steamer.

4. Sedition Committee Report, 1918, p. 10.

A branch of the *Abhinav Society* had existeb since 1907 in Satara ; but during 1910 three members were charged with a conspiracy to wage war. The Satara Conspiracy Case resulted in the conviction of all the accused who were sentenced to imprisonment.

The revolutionary organisation had spread to the various parts of Western India. Even Gujarat was not free from the revolutionaries. In November 1909, an attempt was made at Ahmedabad to blow off the carriage in which Lord and Lady Minto were driving through the city. Two cocoanut bombs were thrown which however did not explode though one of them exploded afterwards when it was picked up by a passer-by whose one hand was blown off.

VI

Such was the work of the revolutionaries in the Deccan during 1906-10. There was some activity in the Madras Presidency as well. In April 1907, Mr. Bipin Chandra Pal had made a lecture tour in Madras and had preached the gospel of *Swaraj* and had stirred the minds of young men. In October 1907, he was sentenced to six months' imprisonment for refusing to give evidence in a sedition case against Mr. Arabindo Ghose. Two of his Madrasi admirers—Subramaniam Siva and Chidambram Pillai—planned to celebrate his release on the 9th March, 1908, by holding a public meeting, hoisting the flag of *Swaraj*, and by pledging to boycott everything foreign. They were both arrested on the 12th March and on the next day there was a serious riot in Tinnevelly. "It was marked by wholesale and deliberate destruction of Government property in open defiance of the constituted authority. Every police building in Tinnevelly town, except the Sub-Registrar's Office was attacked. The furniture and records of these buildings were set on fire as well as portions of the buildings themselves ; the municipal office was gutted. Twenty-seven persons were convicted and sentenced for participation in the riot.[1]

There followed prosecutions of newspaper editors and popular speakers. The centre of authority was shifted to Pondicherry and a group of young men began to organise themselves there for revolutionary work. The main incentive and guidance was given by M. P. Tirumal Acharya who was connected with both the London India House and the Paris group of Indian revolutionaries, and V. V. S. Aiyer who was with Vinayak Savarkar in London and was later in Paris. Mr. Aiyer reached Pondicherry and began to prepare the young men who had already gathered there for revolutionary work, especially by training them in revolver shooting. One of these men who practised revolver shooting was Vanchi Aiyer, who later shot Mr. Ashe, the District Magistrate of Tinnevelly, on 17th June, 1911. He was tried and executed. His associates were also arrested and a revolutionary conspiracy was discovered. The Tinnevelly Conspiracy Trial—as it came to be called—resulted in the

1. Sedition Committee Report, 1918, p. 163.

conviction of nine men who were sentenced to various terms of imprisonment.

In the last two sections reference had been made to the work of Indian revolutionaries from London and Paris. On the continent of Europe there was an active group of Indian revolutionaries during the period under review. It was led by Shyamji Krishna Verma, S. R. Rana, Cama and Madame Cama who tried to do vigorous propaganda among the students and members of the professional classes in India through newspapers, journals, leaflets, etc., which were secretly sent to persons likely to be influenced in the various parts of India. Besides the *Indian Sociologist* of Shyamji Krishna Varma the *Bande Matram*, which was edited by Mm. Cama and issued from Geneva, was very active. Another centre of revolutionary propaganda abroad was on the Pacific coast of America. There were two distinct associations—the Indo-American Association and the Young India Association—with their head-quarters in California and branches in Chicago, New York and other important American cities. "The moving spirits are students, chiefly from Bengal who have found ready helpers amongst the Irish-American Fenians. They have also been able to make not a few converts amongst the unfortunate British Indian immigrants who suffered heavily from the anti-Asiatic campaign along the Pacific slope, and some of these converts, being Sikhs and old soldiers, were of special value, as through them direct contact could be established with the regiments to which they had belonged, or, at any rate, with the classes from which an important section of native army is recruited. Large quantities of seditious leaflets, circulated broadcast three years ago among sepoys, were printed in America."[1]

The Indo-American Association was mainly a propagandist society. It had as its organ *Free Hindustan* published periodically. But the Young India Association was organised on the model of Irish Revolutionary Societies and had its "head centres" and "inner" and "outer circles" and devoted itself chiefly to the study of explosives and to smuggling arms into India. It is asserted by Sir Valentine Chirol "that both these associations were in frequent communication with the seditious press all over India, in the Deccan as well as in Bengal and in the Punjab."[1]

VII

The movement in the Punjab in 1907-8 was not really revolutionary. It is true that the situation was serious in the Punjab during the spring and summer of 1907, as pointed out by the Lieutenant-Governor, Sir Denzil Ibbetson. There was grave discontent in the province which broke out into riots at two places—Lahore and Rawalpindi. But there were no secret societies plotting violent crime as in Bengal, Maharashtra and Madras.

The national movement had stirred the minds of the educated

1. Chirol : Indian Unrest, p. 147.

classes in the Punjab. The teachings of Swami Dayanand had helped to create a spirit of independence and *Swadeshi* among the Hindu young men ; and the happenings in Bengal could not but influence them. Vigorous national propaganda was being carried on in the Indian Press and some of the papers went beyond constitutional limits. Their editors and printers were prosecuted and punished. But no action was taken against the Anglo-Indian papers which were preaching racial hatred and enmity. *The Civil and Military Gazette* of Lahore was the worst offender. It carried on a systematic campaign against the educated classes by calling them all sort of names and by spreading false alarms of revolt. It gave out that the 50th Anniversary of the Mutiny (May 10, 1907) would be marked by another big rising against the British. This was taknen seriously and preparations were made in several Punjab towns for the protection of British lives—by making arrangements for the withdrawing of British residents into the forts. Writes Mr. Nevinson—"But in spite of all that prophecy could do no outbreak occurred."[1]

However, the vigorous anti-Indian propaganda of the Anglo-Indian Press and the surge of the nationalist movement in Bengal with the prevalence of natural calamities like the plague and the famine and the adoption of unwise agrarian measures by the Government had created a very tense situation in the Punjab during 1907-08. In April 1907 the public opinion in Lahore was running very high owing to the prosecution of two Indian papers the "*India*" and "the *Punjabee*". The editor and proprietor of the *India* was sentenced to five years' imprisonment and the printer to two years' "for publishing a letter from America containing a seditious appeal to the native troops."[2] *The Punjabee* was prosecuted for its comments on a *Begar* Case in which two villagers, who were forced to work for an official were said to have died as a result of forced labour. The proprietor was finally sentenced (on appeal) to a fine of Rs. 1,000 and an imprisonment of six months and the editor to a fine of Rs. 200 and an imprisonment of six months. On the 16th April, 1907, the final judgment was delivered by the Lahore High Court in the *Punjabee* Case. As soon as the people heard of it they gathered in large numbers and they met the prisoners as they were being taken to jail. There was great enthusiasm and commotion, leading to a riot.

However, the troubles in the Punjab were largely argrarian in their origin.[3] It is admitted by the biographer of Lord Minto that the disturbances were largely due "to the unwise handling by the Local Government of the situation in the Canal Colonies"[4] Land-revenue was considerably increased ; the irrigation rates, especially on the Bari-Doab Canal, were raised and above all the Government

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1. Nevinson : The New Spirit in India, p. 20.
2. *Ibid.*, p. 18.
3. For causes of the troubles see Lajpat Rai : Story of My Deportation, Appendix B.
4. Buchan : Lord Minto, p. 256.

attempted to go back on their word in connection with the possession of reclaimed lands in the Chenab Colony. A Colonization Bill was rushed through the Punjab Legislative Council altering the agreements made under the Act of 1893. There was strong agitation against these measures. The leaders of the movement were Mr. Ajit Singh and Syed Hyder Riza. They had formed an "Indian Patriots' Association" for the purpose. Various meetings were held all over the province, especially in the places affected. A meeting was held at Lyallpur on March 22nd, 1907, where Lala Lajpat Rai had been invited to speak. He criticised the Government measures which he held were responsible for the increasing discontent. Mr. Ajit Singh also spoke at the meeting. This coincidence of both of them speaking at the same meeting was perhaps responsible for the later deportation of the two gentlemen together—Lala Lajpat Rai and Mr. Ajit Singh—under the old and musty Regulation of 1818.

The increase in the land-revenue was specially great in the Rawalpindi district. Two meetings were held in April 1907 at Rawalpindi to protest against the heavy increase. At the second meeting held on the 21st April Mr. Ajit Singh was the chief speaker. The President, Lala Hans Raj, stopped Mr. Ajit Singh when his speech became really violent; but, a few days after, a notice was served on the President and two other respectable pleaders, Lala Amolak Ram and Lala Gurdas Ram, who were also connected with the meeting of April 21st, requiring them to attend on May 2nd, at 11 A.M. at the public enquiry to be held for the purpose of prosecuting them under Sections 124-A and 505 of the Indian Penal Code. The three lawyers—and also Lala Lajpat Rai, who had reached Rawalpindi to render what help he could to his lawyer friends—considered the notice illegal and decided not to put in personal appearance. They, however, authorised two young barristers, Mr. Aziz Ahmad and Mr. Bodh Raj, to watch the proceedings on their behalf. A large crowd gathered near the Court of the District Magistrate on the morning of 2nd May. It was swelled by a large number of workmen who had struck work that morning at the Government Arsenal, the Railway Workshop and the private workshop of R. B. Sardar Boota Singh. And as the hour passed eleven and the District Magistrate did not arrive, the crowd became very restive. At last he reached at 12-30 but instead of proceeding with the public enquiry postponed it till further notice—it appears owing to orders from the Punjab Government. When the crowd learnt of the postponement it lost its temper and "instead of dispersing, swept down a main road, destroyed and burnt some furniture from a mission house and church, and damaged some gardens and houses of Europeans together with a Hindu workshop, where the men were on strike. The police did not appear, but troops patrolled the town later."[1]

For this riot six prominent lawyers, including the three who

1. Nevinson : The New Spirit in India, p. 19.

were connected with the meeting of 21st April, and sixty other persons were arrested. All the six lawyers were acquitted on October 1st after being kept in jail in great discomfort during the hottest months in the year, "the Magistrate declaring the evidence was fabricated." Out of the remaining accused five persons were sentenced, three to seven years' imprisonment, for riot and arson.

The situation in the Punjab later improved mainly owing to the vetoing of the Colonization Bill by the Viceroy—Lord Minto—who considered it "an unjust Bill." He wrote to Mr. Morley in this connection—"I hate the argument that to refuse to sanction what we know to be wrong is a surrender to agitation and an indication of weakness. It is far weaker, to my mind, to persist in a wrong course for fear of being thought weak."[1] Writes Lord Minto's biographer: "So he disallowed the Bill, with the most fortunate consequences."[1]

1. Buchan: Lord Minto, p. 257.

14

REPRESSION AND REFORMS

I

Events in India in 1905-06 were exerting their influence on the minds of the two new heads of the Indian Government. In November 1905, Lord Minto had replaced Lord Curzon as Viceroy and in December 1905 the radical John Morley had become the Secretary of State for India. On June 6, 1906, Mr. Morley John—as he then was—wrote to Lord Minto drawing attention to the views of such British publicists as Lawrence, Chirol and Sidney Low, who had witnessed in their recent sojourns in the country "a new spirit.....growing and spreading in India," and who were of the opinion that it was not possible "to go on governing in the same spirit ; you have got to deal with the Congress Party and Congress principles....."[1] This view was also urged with great tact and force by the sagacious leader of Indian moderates, the President of the Indian National Congress in 1905 and the founder of a new political order "the Servants of India Society", Mr. Gopal Krishna Gokhale. Speaking on the budget in the Imperial Legislative Council in March 1906 Mr. Gokhale made a public appeal to Lord Minto. "The question of the conciliation of the educated classes.....raises issues which will tax the resources of British statesmanship. There is but one way in which this conciliation can be secured, and that is by associating these classes more and more with the government of their country."[2] After the session of the Council Mr. Gokhale went to England and had several interviews with the Secretary of State. It appears that Mr. Morley took Mr. Gokhale into his confidence[3] and secured his support to a measure of moderate reforms." After

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1. Morley : Recollections, Vol. II, pp. 172-74.

2. Buchan : Lord Minto, p. 231.

3. At the last interview on 1st August, 1906, Mr. Morlay told Mr. Gokhale—"For reasonable reforms in your direction, there is now an unexampled chance.....Only one thing can spoil it. Perversity and unreason in your friends.....*I ask you for no sort of engagement*.....we are quite in earnest.....to make an effective move. If your speakers or your newspapers set to work to belittle what we do, to clamour for the impossible, then all would go wrong." Mr. Gokhale acquiesced cordially and wrote to his friends in India pitching "a most friendly and hopeful note." Morley : Recollections, Vol. II, pp. 181-82.

consultations between the Secretary of State and the Viceroy it was decided that the initiative should be taken by the Government of India. "I attach great importance to the official initiative being taken by the Government of India"[1] was the reply of Lord Minto to Mr. Morley's querry in this connection in his letter of June 15th, 1906.

As a first step Lord Minto appointed in August 1906 a Committee of his Executive Council with Sir A. T. Arundal as Chairman and laid down in a Minute the terms of reference as well as the chief objectives. "The subjects he proposed for the Committee's consideration were : (*a*) a Council of Princes, and, should this be impossible, whether they might be represented in the Viceroy's Legislative Council ; (*b*) an Indian member of the Viceroy's Executive Council ; (*c*) increased representation on the Legislative Council of the Viceroy and of Local Governments ; and (*d*) prolongation of the budget debate and increased power of moving amendments."[2]

The Arundal Committee reported in October 1906 but discussions of the Viceroy's Executive Council were so prolonged that it was not until the end of March 1907 that the dispatch on Reforms was sent by the Government of India to the Secretary of State. Mr. Morley immediately consulted his Council and invited Government of India to consult the Local Governments. It took over a year to gather the views of the Local Governments and the public and it was not until October 1st, 1908, that the next step was taken in the matter of reforms.

II

In the meantime serious situation had risen in the various parts of the country. In Bengal there was raging a veritable storm. The Lieutenant-Governor of the newly-created province of Eastern Bengal and Assam handled the situation most tactlessly. He tried to terrorise the people by quartering batches of Gurkha troops in many of the important places in the province. Lord Minto, says his biographer, "was convinced that Sir Bampfylde's administration was a serious danger" but "shrank.....from the step which would certainly be misconstrued by the critics of the Government.....Then in July (1906) an incident happened which was not quite unwelcome to either the Viceroy or the Secretary of State."[3] This was the question of disaffiliation of two schools whose students were "guilty of violently unruly conduct in the town"[3] of Serajganj. The Lieutenant-Governor had asked the Calcutta University to disaffiliate the schools but the Government of India considered the step impolitic at the time and asked Sir Bampfylde to withdraw his request. On this Sir Bampfylde gave an ultimatum to the Viceroy—either to allow him to proceed

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1. Buchan : Lord Minto, p. 234—letter dated 11th July, 1906.
2. *Ibid.*, p. 240, for the text of the Minute, see pp. 251-53, Mukherjee ; Indian Constitutional Documents, Vol. I.
3 *Ibid.*, p. 237.

with the matter of disaffiliation or to accept his resignation. Writes Lord Morley : "Lord Minto was quite alive to the objection against changing the Lieutenant-Governor in the face of agitation, but it became everyday more evident that the administration of the new province was unreliable and might lead to further difficulties—so the resignation was accepted. I telegraphed my concurrence without delay."[1]

The situation was badly handled not only in Eastern Bengal but also in the Punjab as well. Instead of relieving agricultural distress and removing the causes of trouble—which, as has already been described above,[2] was largely agrarian in origin—the Punjab Government decided to adopt strong measures and to press the Government of India to deport Lala Lajpat Rai and Sardar Ajit Singh, under the old Regulation III of 1818. Lala Lajpat Rai had come into prominence in several capacities. He was a religious reformer and an educationist and a leader of the Arya Samaj. He was a philanthropist and a social worker. He had a genuine love for the masses and the suffering people. He was also a prominent Congress-man and was one of the three important leaders of the new party—"The Extremists". He was a speaker of eloquence and effect specially in Urdu. And the Government was suspicious of his independence and growing influence. On the other hand his countrymen—even those who differed from him in both religion and politics—regarded him as an honest and selfless patriot, the soul of honour and incapable of conspiring against the Government or tampering with the loyalty of troops or of doing any underhand action.[3] His criticism of the Government policy was frank and open. His connection with the agrarian agitation was slight. It was only once that he had addressed a meeting in company with Sardar Ajit Singh. The Sardar was a farmer in the Lyallpur District and was little known previously. He rose to prominence as one of the chief organisers of the agrarian agitation of 1906-7. He was a powerful and even a violent speaker and was a great favourite with popular audiences. The Government was alarmed at the rapid spread of the agitation and thought that the best way to stop it was to deport Sardar Ajit Singh and Lala Lajpat Rai under Regulation III of 1818. The Governor-General-in-Council issued a warrant of commitment for the arrest and deportation of the two gentlemen and they were both deported separately on May 9, 1907, to Mandalay in Burma. The Viceroy also issued an Ordinance on May 11, 1907,

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1. Morley : Recollections, p. 184.
2. See Chapter 13.
3. Referring to the deportation of Lala Lajpat Rai, Mr. Gokhale said in the Indian Legislative Council :—"That a man like Lala Lajpat Rai, loved by a thousand not in his own province only, a man of high character and of elevated feelings, a keen religious and social reformer, and a political worker, who, whatever his faults, worked in broad daylight, should have been arrested and deported without a trial, this was a proceeding which stunned the people throughout India." p. 43, Proceedings of the Indian Legislative Council, Vol. XLVI, 1907-8.

called the Regulation of Meetings' Ordinance, limiting stringently the right of holding public meetings. According to the Ordinance, organisers of the public meetings were required to give seven days' written notice. Magistrates were empowered to prohibit meetings and those meetings which were not prohibited were to be attended by the police. This Ordinance was to be applicable to such areas as were notified by the Governor-General-in-Council. The Ordinance was applied at once to the Punjab and Eastern Bengal.

The deportation of Lala Lajpat Rai caused a great consternation among the people in various parts of the country and it had the effect of stiffening the backs of young men especially in Bengal and of converting them into extremists and even believers in violence and terrorism. Conditions in the two Bengals were already bad enough. The Government policy of favouring the Mohammedans and of quelling all opposition to the Partition was driving the people to extremism of both words and action. "A section of Bengali Press had cast off all sense of restraint and began to indulge in downright and unabashed license."[1] The Government of Bengal decined to prosecute the various papers that were carrying on anti-Government agitation. A regular campaign was started and the first paper that was prosecuted was the *Bande-Mataram*, an English nationalist daily, edited by a board including Babu Arabindo Ghose. The Government charged Arabindo Ghose and the printer with sedition in August 1907. Although it was well-known that Arabindo Ghose was the life and soul of the paper no witness was found to attest to the editor's name.[2] When Mr. Bipin Chandra Pal was called to give evidence he refused to take any part in the proceedings, declaring that, in his opinion, the prosecution was detrimental to the interssts of the country. For this Mr. Pal was prosecuted and sentenced to six months' simple imprisonment. However, the case against rabindo Ghose broke down and he was acquitted. The printer was convicted and sentenced to three months' imprisonment.

About this time the editors of *Sandhya* and *Yugantar*, the powerful vernacular papers, edited respectively by Brahmobandhab Upadhya and Bhupendra Nath Dutt were also prosecuted. Mr. Upadhya submitted a written statement in which he said—"I do not want to take part in the trial, because I do not believe that, in carrying out my humble share of the God-appointed mission of Swaraj, I am in any way accountable to the alien people, who happen to rule over us and whose interest is, and must necessarily be, in the way of our true national development."[3] This is the first instance, as far as I have been able to ascertain, of non-co-operation with British Courts, which became such a common feature of the post-war non-co-operation movements. However, the case took an unexpected turn when the accused died in the Campbell Hospital in

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1. Ray : The Life and Times of C. R. Das, p. 55.
2. There was no law then which required the newspapers to declare the names of their editors as at present.
3. Ray : The Life and Times of C. R. Das, p. 57.

Calcutta before the preliminary stages had been concluded."[1] Mr. Dutt's defence failed and he was sentenced to one year's rigorous imprisonment. Four more prosecutions were brought against the *Yugantar* within the next few months and each time the editor and printer were sentenced to imprisonment. But the paper continued its existence and propaganda.

Whilst these prosecutions were being launched in Bengal and the Punjab the Government of India was pressing upon the Secretary of State the necessity of passing a special press law. A dispatch was sent from India in this connection in July 1907—which, confesses Lord Morley, gave him "some shivers".[2] But the Government of India was bent on adopting strong and repressive measures. The Secretary of State resisted in the beginning. At times he wrote strongly about the conduct of some of the official members[3]—whom he generally called by the hated Russian name of "Tchinovniks." And when the Government of India approached Lord Morley for sanction for enacting a Bill for the Prevention of Seditious Meetings, as it was called, he burst forth in great indignation.[4] He wrote to the Viceroy not to pay any heed to the advice of men "who resisted you in your Arundal reforms" and "who urged us to take advantage of disorder at Lahore and Pindi, as a plea for dropping Arundal reforms."[5] And he telegraphed his 'flat veto', characterising the proposals as most extraordinary, reactionary and unnecessary. However, ultimately the Secretary of State succumbed[6] to the insistent and persistent demands of the bureaucracy in India and allowed the Government of India to enact a series of repressive measures and to enforce them with great severity on the people.

III

The first of these repressive measures was the Prevention of Seditious Meetings Act, passed on November 1st, 1907, which was described by the Home Member himself as "a repressive measure of considerable potency".[7] The Regulation of Meetings Ordinance promulgated on May 11th was due to expire on November 10th, as the life of an Ordinance is limited by law to six months. Although

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1. Ray : The Life and Times of C. R. Das, p. 57.

2. Morley : Recollections, Vol. II, p. 226.

3. "To tell you the truth", writes Lord Morley to Lord Minto, "the more I [think both of...and...the less do I value the judgment of either one or the other. And now by the way, that we have got down the rusty sword of 1818, I wish you would deport—and—(two officials)". *Ibid.*, p. 214.

4. The reply of Lord Morley is worth reading—*Ibid.*, pp. 231-33.

5. *Ibid.*, p. 231.

6. No doubt, with great hesitation, trepidation and against his best instincts.

7. Proceedings of the Legislative Council, Vol. XLVI, p. 25.

no case was made for the continuation of the restrictions[1] the Government of India decided to give them a new lease of life and in a more stringent form by the Seditious Meetings Act of 1907. A few improvements were introduced by the Council but in spite of them the measure was severely repressive. The Act gave the power to the Government of India to apply it to any province of India. The local authorities required three days' notice of every meeting of more than 20 persons proposed to be held for any purpose whatsoever. The clause defining public meetings was so wide that social meetings held in private houses could be considered public meetings. It was this which had especially appalled Lord Morley. He wrote that the proposal to put in operation a press law on the exclusive initiative of the military authorities was bad and novel enough; but this motion of turning a private meeting into a public one almost beats it! And the notion of giving the Lt.-Governor or other authority the right of forbidding a speaker whose views he dislikes to open his mouth in a given area! Let...go in for an honest guillotine and have done with it....."[2] The authorities were given the power of prohibiting any public meeting and to forbid any persons from addressing a public meeting; to impose any restrictions that they may deem fit in the interests of public peace on the meetings that were allowed to be held and to send the police to attend all meetings. The attempt was, as Sir Rashbehari Ghose pointed out, to kill all political life in the country.[3] The two chief improvements that were made in the Select Committee were that the Act should remain in force only for three years and that the order of a Local Government proclaiming any area as notified under the Act should be in force only for six months at a time. But these did not and could not reduce the rigour and the extraordinary repressive nature of the Act. As was pointed out by Dr. Rashbehari Ghose the Act resembled more a Russian *Ukase* than any law of a civilised State.[4]

IV

The repressive policy of the Government, as was predicted by the Moderate leaders[5], drove the discontent underground. Secret societies began to multiply rapidly and the number of revolutionaries among the young men of Bengal increased considerably. And

1. Read the speech of Mr. Gokhale on the Bill, specially p. 34 of the Proceedings, Vol. XLVI. Mr. Gokhale gave facts and figures: During the previous six months only one meeting was held, in the Punjab at Delhi without leading to any disturbance of the peace. In Eastern Bengal not a single meeting was held, the projected meeting at Faridpur was abandoned owing to stringent restrictions imposed on the topics of discussion.

2. Morley: Recollections, Vol. II, pp. 232-33.

3. Proceedings of the Legislative Council, Vol. XLVI, p. 54.

4. *Ibid.*, p. 49.

5. See the speech of Dr. Ghose in the Council, p. 53. Proceedings of the Council, Vol. XLVI. In commenting on the potency of the measure Dr. Ghose said: "It will be potent for one purpose only. For the purpose of propagating the bacillus of secret sedition."

the terrorist crime appeared on the scene. "Bureaucracy was alarmed, startled at the result of its own blunders. It sought to restore the situation and to ensure the ends of peace, and of law and order, by repressive measures which followed one another in rapid succession, chilling the public life of the country, and stunting its growth and development.[1] On one single day (June 8, 1908), by suspending ordinary rules of procedure, when hardly any Independent Indian was present, the Government of India pushed through the Council two most potent repressive measures—the Explosive Substances Act and the Newspapers (Incitement to Offences) Act.

There was already an Explosives Act—that of 1884—on the statute book. Besides, there was also the Indian Arms Act of 1878. Finally there were provisions in the Indian Penal Code relating to hurt or mischief caused by explosive substances prescribing punishment up to transportation for life. But the Government considered the existing law insufficient and defective to meet the new situation created by the appearance of the bomb and passed the Act of 1908.

The new Act dealt not only with explosives but also with the materials and implements which could be used in their manufacture ; and any one who was found in possession or control of them in suspicious circumstances was punishable with transportation for fourteen years or imprisonment for five years.[2] The Act did not deal with explosions which resulted in loss of life, because they were punishable as murders—but with all other explosions and prescribed heavy punishments for causing them.[3] Even if no explosion was actually caused but an intent and an attempt to cause it was established the offence became punishable with transportation for twenty years or imprisonment for seven years,[4] and, lastly, "any person who, by supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act, shall be punished with the punishment provided for the offence."[5]

The second Act passed on the 8th June, 1908, which was not considered as repressive at all by the Home Member but which was regarded by Indian public opinion as severely repressive, was the Newspapers (Incitement to Offences) Act, 1908. The object of the Act was, as explained by the Home Member in the Council, "to put an end to their [*i.e.*, of Newspapers, which contain any incitement to murder or any offence under the Explosive Substances Act, 1908,

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1. Bannerjee : A Nation in Making, p. 249.
2. Clause 5 of the Act. Agarwala : "The Lawyers" Vade Mecum for Criminal Courts, Vol. I, p. 53.
3. Clause 3, *Ibid.*, p. 51-52.
4. Clause 4, *Ibid.*, pp. 52-53.
5. Clause 6, *Ibid.*, p. 53.

or to any act of violence,']¹, existence.....by giving power to confiscate the printing press and to extinguish the newspaper."² The Act empowered a District Magistrate to confiscate the printing press where a newspaper which in his opinion contains incitement to acts of violence is printed or is intended to be printed by a conditional order and to call upon persons concerned to appear before him to show cause as to why the order should not be made absolute.³ If, on hearing the evidence, the Magistrate is satisfied that the newspaper has committed the offence the conditional order shall be made absolute⁴ and he may empower a police officer to attach the press and other property mentioned in the order.⁵ In cases of emergency the Magistrate could issue warrants for attachment even before the order is made absolute.⁶ On the intervention of the Secretary of State some semblance of judicial proceedings was given to this act of confiscation⁷ and a right of appeal to the High Court was allowed within fifteen days of the date of the order being made absolute.⁸ Lastly, the Act gave the Local Government the power to annul the declaration made by the printer or publisher of the newspaper under the Press and Registration of Books Act, 1869⁹, with the result "that the newspaper will cease to lawfully exist."¹⁰

V

Whilst these special measures were being rushed through the Council, the Government launched a series of prosecutions for sedition under Section 124A and 153A in almost all parts of the country and the trying magistrates were awarding "thundering" sentences which even the Secretary of State for India could only describe as "outrageons", "monstrous" and "indefensible."² It appears that the terrorist crime had unnerved the Bureaucracy and the Anglo-Indians and having given way under the strain they began to advocate a policy of revenge and unmitigated repression. Lord Morley was horrified and went on writing protests and giving warning—but in vain.¹¹ On July 14th, 1908, he wrote to Lord Minto—"I must confess to you that I am watching with the deepest concern and dismay the thundering sentences that are now being passed for sedition, etc. I read today that stone-throwers in Bombay

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1. Clause 3, Ghosh : Press and Press Laws in India, p. 63.
2. Proceedings of the Legislative Council, Vol. XLVII, p. 92.
3. Clause 3, sub-section 1, Ghosh : Press and Press Laws in India, pp. 63-4.
4. Clause 3, sub-section 5, *Ibid.*, p. 64.
5. Clause 4, *Ibid.*, pp. 64-65.
6. Clause 2, sub-section 3, *Ibid.*, p. 64.
7. Morley : Recollections, p. 260.
8. Clause 5, Ghosh : Press and Press Laws in India, p. 65.
9. Clause 7, *Ibid.*, p. 65.
10. Proceedings of the Legislative Council, Vol. XLVII, P. 13.
11. Morely : Recollections, Vol. II, pp. 269-70.

are getting twelve months. This is really outrageous. The sentences on the two Tinnevelly-Tuticorin men are wholly indefensible —one gets transportation for life, the other for ten years.....They cannot stand. I cannot on any terms whatever consent to defend such monstrous things. I do therefore urgently solicit your attention to these wrongs and follies. We must keep order but excess of severity is not the path to order. On the contrary, it is the path to the bomb."[1]

Thus, it was not only the Indian leaders but also men in supreme authority who held, that the bomb was the result of repression. Indeed Lord Morley went further. He put the whol- responsibility for the "Unrest" on the fire-eating diehards in the bureaucracy. He wrote to Lord Minto : "It is not you nor I who are responsible for 'Unrest', but the 'over confident and overworked *Tchinovniks* who have had India in their hands for fifty years past."[2].

However, the "*Tchinovniks*" still had their way. It is neither possible nor necessary to describe the sedition cases that were tried during 1908. It is sufficient to mention only a few. In Madras there were three important cases—the Tinnevelly Case against Messrs. Chidambaram Pillai and Subramania Siva in which the High Court reduced the sentence to six years' transportation on both ; the case against Mr. Srinivasa Iyengar of *India* who was sentenced to five years' transportation ; and the case against the editor and proprietor of the *Swaraj* who submitted a written apology to the Government but were still prosecuted.[3] In Bengal action was being taken under the Newspapers (Incitement to Offences) Act against the *Bande Matram*, the *Yugantar*, etc. ; and where prosecutions for sedition were unable to kill them, action under the new Act put an end to their existence. In the Central Provinces the editor of a vernacular sheet, Hari Kishore, was sentenced to five years' rigorous imprisonment and the press where the sheet was printed was declared to be forfeited to the Government. In the United Provinces the editor of *Urdu-i-Moalla* was sentenced to two years' rigorous imprisonment and a fine of Rs. 500 for writing an article on the educational policy of British Government in Egypt ; and at Aligarh one Mr. Hoti Lal Verma was sentenced to seven years' transportation for sending a seditious telegram to *Bande Matram* and for circulating a seditious leaflet. In Bombay the editors of the *Hind Swarajya*, *the Vihari*, and *the Arunodaya* were all sent to jail. But the case that attracted the largest attention not only in Bombay but all over India and which aroused a storm of indignation in the country was the one against Mr. Tilak, editor of the *Kesari*

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1. Morley : Recollections, Vol. II, pp. 269-70.
2. *Ibid.*, p. 263.
3. They were sentenced to nine and six months' simple imprisonment respectively by the Sessions Judge of Kistna, Mr. Phiroze Shah Kershop, in view of their abject apology. The case against Mr. G. Subramania Iyer of *the Hindu* Madras, was withdrawn by Government on account of a written apology and an undertaking for the future.

and the popular leader of the Nationalist Party, which was committed to the Criminal Sessions of the Bombay High Court on June 29th, 1908. Mr. Tilak was tried by Mr. Justice Davar with the help of a special jury. He conducted his own defence and spoke for full 21 hours 10 minutes. He questioned the correctness of the Government translations of his articles and his plea was that he had only performed his journalistic duties of answering the criticisms of the Anglo-Indian Press and of pointing out the dangers of repression. He wanted to sound a note of warning and to appeal to the Government to adopt the right policy of reform and reconciliation. The explanations of Mr. Tilak were not accepted by the jury which pronounced him guilty by 7 votes to 2. The judge agreed with the jury and sentenced him to six years' transportation and a fine of Rs. 1,000. Before the sentence was delivered, Mr. Tilak was given an opportunity to speak, when he uttered the following remarkable words : "All I wish to say is that in spite of the verdict of the jury, I maintain that I am innocent. There are higher powers that rule the destinies of things ; and it may be the will of the Providence that the cause I represent may prosper more by my sufferings than by my remaining free."[1]

As soon as the result of the case was known in Bombay the bazars began to close and the students began to absent themselves from schools and colleges that day ; the mill-hands struck work and observed *Hartal* for full six days. Condolence meetings were held all over the country where resolutions of sympathy were passed.

VI

But still the cup of repression was not full to the brim. In December 1908, the Government of India pushed through the Council in a single sitting (on 11th December) a measure of strongly repressive nature to expedite the trials of cases against persons involved in terrorist crimes and anarchist conspiracies and to end the existence of certain volunteer associations by declaring them unlawful. The Criminal Law (Amendment) Act, 1908, was divided into two parts—the first, prescribed a special form of trial for offences of the anarchical type ; the second, dealt with associations. According to the first part an accused could be committed for trial by a Magistrate after holding an *ex-parte* enquiry ; and the case instead of being committed to the sessions was to be tried by a bench of the High Court—consisting of three judges but without a jury. Evidence of persons who had not been cross-examined before they were killed, was made admissible and the decision of three judges was final. In summing up the provisions of this part Sir Harvey Adamson said in the Council : "There will in fact be only one public trial instead of three. And last, but not the least, the trial will take place in a court which has the fullest power to deal with contempts, and which will not be compelled to tolerate improper comments on pending cases."[2] The second part empowered the Government to declare any

1. Quoted by Mr. Athalye in the Life of Mr. Tilak, p. 208.
2. Proceedings of the Council, Vol. XLVII, p. 57.

association unlawful, if, in its opinion, it interfered with the administration of law, or the maintenance of law and order, or constituted a danger to the public peace. The Act made "it punishable up to a term of six months' imprisonment to take part in the meetings of an unlawful association or to contribute or receive or solicit contributions for it or in any way assist its operations;" and fnrther it also made "it punishable up to a term of three years' im prisonment to manage or assist in managing or promote the holding of meetings of unlawful associations."

Under this Act the Volunteers' Associations which had been existing in the various parts of Bengal since 1902 and which performed various kinds of social service to the public were declared unlawful as they were suspected by the Government of taking part secretly in the revolutionary movement. The result was that they quickly went out of existence.

The last repressive act of the year was also the most severe. At one stroke nine leading public men of Bengal, some of whom were known for their moderation, were deported under the old Regulation III of 1818. Writes Sir Surendranath Bannerjee, 'One morning in December 1908, people learnt with astonishment that Aswini Kumar Dutt, the leader of the Barisal district, the founder of the Brojomohan College, Krishna Kumar Mittra, one of the foremost members of the Brahmo Samaj, a man held in universal respect by all who knew him, Satis Chandra Chatterjee, Sachindra Prasad Bose, prominent Swadeshi workers, and the wealthy and patriotic Subodh Mullick, had all been deported under Regulation III of 1818."[1] This caused a great consternation in the country and the action was condemned by both the Moderates and the Extremists alike.

VII

Whilst the Government of India was following a policy of ruthless repression and was trying its best to suppress the extremists of both the constitutional and revolutionary schools, it was also, at the same time, evolving proposals to rally the moderates, the Mohammedans, the landlords and the princes to its side. These proposals were embodied in a Dispatch, dated the 1st October, 1908 and sent to the Secretary of State by the next mail. The Dispatch of the Government of India was carefully examined by a small committee of the India Council. It was then discussed by the whole Council after which Lord Morley proceeded to draw up his own proposals on the question. In this connection he wrote to Lord Minto on November 5, 1908: "The subject is grave; to keep in step with you is all important; to present a front that won't offend the Bureaucracy nor the non-official Anglo-Indians, nor the Mohammedans, nor the right wing of the Congressmen, is no joke....."[2] But he accomplished the task and laid his dispatch before his

1. Bannerjee : A Nation in Making, p. 249.
2. Morley : Recollections, Vol. II, p. 281.

Council which was approved by it. "There were two dissents—chiefly or indeed entirely, on the point of official majority."[1] It was also passed by the Cabinet—it "took the thing on trust, having rather urgent business of much domestic moment on their hands....."[2] It was dispatched on November 27th, 1908, to India.

Meanwhile on November 2nd, the 50th anniversary of Queen Victoria's famous Proclamation, King Edward sent a Royal Message to the Princes and People of India foreshadowing political reforms. It was read by the Viceroy in a great Durbar at Jodhpur. The proclamation, after affirming the principles of 1858 and narrating the attempts made to carry them out, declared : "From the first, the principle of representative institutions began to be gradually introduced, and the time has come when.....that principle may be prudently extended.....I will not speak of the measures that are now being diligently framed for these objects. They will speedily be made known to you ....."[3] And on December 17th, 1908, the reforms proposals of the Government were explained in a long speech by Lord Morley to the House of Lords and the two dispatches—those of October 1, 1908, and November 27, 1908—were placed before the Parliament. The Indian National Congress—shorn of its left wing—which met at Madras at the end of the month gave a hearty welcome to the Morley-Minto Scheme. The proposals were embodied in the form of a short Bill which was introduced by the Secretary of State in the Lords on February 23rd, 1909, and which became the Indian Councils Act, 1909, on May 25th, 1909.

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1. Morley : Recollections, Vol. II, p. 282.
2. *Ibid.*, p. 283.
3. *Ibid.*, p. 371. The Royal Proclamation of 1908 is given *in extenso* as an appendix at the end of Volume II of Morley's Recollections. See pp. 369-372.

15

THE RISE OF MUSLIM COMMUNALISM

I

While correspondence was going on between Mr. Morley and Lord Minto on the subject of political reforms and on the necessity of "having a deal" with the Congress and the Secretary of State was negotiating with Mr. G. K. Gokhale and had succeeded in winning his support and that of his friends, the Indian moderates, the British bureaucracy in India was busy planning to sabotage political progress by introducing communalism in Indian politics and by making separate communal electorates an integral part of the projected political reforms. It is certainly most surprising but nonetheless it is an important fact that Lord Morley was not only not consulted but appears to have been deliberately kept in the dark about the mischievous move until Lord Minto had committed the Government to the policy of granting to the Muslim community both weightage and separate political representation. Of course this was a part of the policy of divide and rule initiated after the Rising of 1857 and pushed a stage further by Lord Curzon through the Partition of Bengal. However to understand the full significance of this most sinister move of 1906 it is necessary to go back to the beginnings of British rule in India and to review briefly the history of the Muslim community.

II

The Muslims in India are not racially or linguistically a distinct people. Except a small number, whose ancestors had come from outside, the vast bulk of them are descendants of Indian converts. They invariably speak the language of the region in which they reside although for religious and communal purposes a number of them learn Arabic and Urdu. They live side by side with the other inhabitants of the country, Hindus, Sikhs, Christians, Parsis and others—and ordinarily in peace and amity. It is true socially and by religion they form a distinct community and at times their relations with members of other religious communities become strained—resulting occasionally in bloody riots.

Before the establishment of British supremacy the Muslims occupied a very important position in the public life and government of the country. They were the rulers in the larger part of the country though their power was declining in most parts before the rising might of the Marathas and the Sikhs. Both in the army and the civil departments important and bulk of the posts were held by the Muslims in Northern India from the Sutlej in the West to the Brahmputra in the East.

All this, however, underwent a rapid change after the establishment of British rule in India. For nearly a century—till the seventies of the 19th century—the British looked upon the Muslims as their opponents—hostile to their rule—and tried to suppress them. Writes Mr. Mohammad Noman : "The British people had decided that for the expansion of the new power and its continuance, the only course was to crush the Mussalmans and had deliberately adopted policies which had for their aim the economic ruin of the Muslims and their intellectual stagnation and general degeneration."[1]

The East India Company, although it had obtained the *Diwani* of Bengal, Bihar and Orissa from Mughal Emperor, followed from the start, an anti-Mohammedan policy. The permanent settlement, remarks Mr. James O. Kinealey, an authority on the subject, "elevated the Hindu collectors, who upto that time had held but unimportant posts, to the position of landholders, gave them a proprietory right in the soil and allowed them to accumulate wealth which would have gone to the Mussalmans under their own rule". "Simultaneously in Bengal, and later all over the country, the Muslims were shut out of the army, 'their *beau ideal* of a profession'."[2] And according to the article published in a contemporary Calcutta Persian paper *Dur Bin*, all sorts of employment, great and small, are being gradually snatched away from the Mohammedans, and bestowed upon man of other races, particularly the Hindus.....Recently, when several vacancies occurred in the office of the Sundrabans Commissioner, that official, in advertising in the Government Gazette, stated that the appointments would be given to none but Hindus."[3] Even in the professions the position of the Muslims deteriorated greatly. During 1852 and 1868 "out of 240 natives admitted" as pleaders of the High Court, "there was only one Mussalman."[4] The deliberate policy followed of crushing Indian industries and handicrafts also affected the Muslim community adversely as many of the artisans and the weavers were Mohammedan. "But," write Ashoka Mehta and Achyut Patwardhan, "the greatest injustice to the Muslims was done in matters educational. Persian

1. Noman : Muslim India, p. 23.

2. H. C. Bowen : Mohammedanism in India, p. 45.

3. Noman : Muslim India, p. 22. In 1871, in Bengal, out of the 2141 Gazetted posts only 92 were held by the Muslims as compared to 711 held by the Hindus—others 1338, were held by Europeans.

4. H. C. Bowen : Mohammedanism in India, p. 45.

and Arabic were "utterly untaught' in the schools."[1] Educational funds endowed by rich Muslims were diverted to give higher education, unsuited to the needs of the Muslims, which benefitted students of other communities. In the case of the Hooghly College in the sixties of the last century "out of 300 who attended only three were Mohammedans."[2] "To sum up," writes Mr. Noman, "the educational policy was responsible for the increase of unemployment and the closing of other avenues for the Muslims. The economic policy impoverished the Indian Muslims. In the Army their recruitment was limited ; in arts and crafts they were crippled and rendered helpless. The result of these policies was the catastrophe of 1857, which no human power could have averted."[3]

It is thus clear that the official policy during the last quarter of the 18th and the first half of the nineteenth century—as a matter of fact till the beginning of the seventies of the 19th century—was definitely anti-Muslim and pro-Hindu and had the effect of depressing the Muslims both politically and economically and throwing them into utter despair.

The discontent among the Muslims was organised and turned into a revolt both against the upper classes and the Government by Wahabi leaders. The Wahabi movement was originally purely religious and imported into India from Arabia by Saiyyad Ahmed Barelvi who had gone to pilgrimage to Mecca and came under the influence of Wahabism that was then sweeping over Arabia. In 1820 he returned to India and started to purify and reform Islam and spread the gospel of Wahabism in the country. "Everywhere he and his disciples stirred the Mohammedan population to its depth and a wave of enthusiasm swept over the country. So elemental was its force that Dr. Hunter has called it 'one of the greatest religious revivals known to Indian history'."[4]

The Wahabi movement though primarily religious was at the same time proletarian and revolutionary. The Wahabis, as Sir William Hunter puts it, were "anabaptists, so to speak, touching matters of faith ; communists and red republicans in politics."[5] They organised the impoverished peasants in Bengal and led agrarian revolts in Faridpur, Naddea and the Twenty-four Parganas. An official report describes them as "a gathering of eighty thousand men asserting complete equality among themselves, and drawn from the lowest classes."

The Wahabi movement was ruthlessly suppressed by the British Government. But, before it finally collapsed, it helped in causing

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1. H. C. Bowen : Mohammedanism in India, p. 40 and Ashoka Mehta and Achyut Patwardhan : The Communal Triangle in India, p. 87.
2. *Ibid.*, p. 88.
3. Norman : Muslim India, pp. 26-27.
4. Mehta and Patwardhan : The Communal Triangle in India, p. 95.
5. Hunter : The Indian Mussalmans, pp. 106-7.

a mighty upheaval in 1857. According to Sir John Kaye "the prime movers in the rebellion.....were Mussalmans," and, adds Mr. H. C. Bowen, "these Mussalmans were undoubtedly Wahabis."[1] Even after the Revolt of 1857 "the Wahabis kept up a state of war on the frontier, drawing resources in men and money from all over the country....."[2]

The Rising of 1857 had no doubt a far wider basis but the British believed that it was more of a Muslim than a Hindu or National Revolt and in suppressing it their special wrath fell upon the Muslims...and for another decade at least the official policy continued to be anti-Mohammedan and pro-Hindu.

Gradually, however, it dawned upon the British members of the services that the entire situation in India had been revolutionised and called for the reversal of the official policy. The threat from the Muslims had passed for ever—"for the Mutiny, representing basically the last bid for supremacy...had been effectively crushed... ...It would be expedient now, once they were too weakened for independent rebellion, but while they were still influential, to take them into alliance, rather than continue to antagonise them. Especially as a new threat was presently discernible .....the nationalism of the growing Westernised and capitalist middle classes"[3]—overwhelmingly Hindu. A number of important British officials began to urge upon the Government and upon "the better classes of Mohammedans...whose political interests are identical with ours"[4] the need for reconciliation and friendship between the British and the Indian Mussalmans. Perhaps the most influential among these officials was Sir William Hunter, whose book "The Indian Mussalmans" was published in 1871. In any case a change in British policy was discernible since 1870 and gradually the foundations were laid for a lasting friendship with the Muslims. Among those persons who worked for Anglo-Muslim friendship in India the most notable were Syed Ahmed and Principal Beck of M.A.O. College, Aligarh.

Sir Syed Ahmed was the descendant of Parsian noblemen who had acquired great influence at the Moghal Court. Early in his life he had come to the conclusion that the future of India lay with the British and not with the decrepit Mughal Empire."[5] Instead of joining service under the Mughal Emperors Sir Syed had entered the service of the Company in 1837 and when the Mutiny broke out he was *Sadar Amin* at Bijnour. By this time he had acquired the reputation of not only being an able judge but also of a great oriental scholar—his work on the ruins, architecture and mausoleums of Delhi, *Asar-e-Sanadial* was translated by a French Orientalist and

1. Mehta and Patwardhan : The Communal Triangle in India, p. 96.
2. *Ibid.*, p. 96.
3. W. C. Smith : Modern Islam in India, p. 196.
4. Sir John Strachey : India : Its Administration and Progress, p. 308.
5. An Indian Mussalman : Indian Muslims and Muslim Politics, an article in the Hindustan Review, January 1909, p. 51.

attracted considerable notice. At the time of the Mutiny he stood loyally by the British and saved many English lives.

After the Mutiny Sir Syed made up his mind to work for the regeneration of his fallen community and for Anglo-Mohammedan friendship and throughout his life he pursued this double purpose with a rare determination and single-minded devotion. To raise his community he advocated social reform and English education—and what he was able to accomplish in these directions is so well-known that it is not necessary to detail it here. It is sufficient to state that the Aligarh Muslim University will remain a permanent monument of his educational work for his community.

Soon after the Mutiny Sir Syed started a journal, called the *Loyal Mohammedans of India*, to help in the work of removing the stigma of disloyalty from the heads of his co-religionists. The journal was discontinued but Sir Syed continued to work for the cause. He tried "to bring about a religious *rapprochement* between Mohammedans and Christians, as he was fully aware that so long as religious antagonism.....subsisted between the Cross and the Crescent, so long was it hopeless to expect either that the Indian Mussalmans should become loyally attached to British rule and identified with its permanence in India, or that their Christian rulers should on their part learn to regard them as loyal subjects and entitled as such to protection and patronage....."[1] To promote this object he wrote a pamphlet to remove the long-standing prejudices and to popularise the Islamic Ordinance which permits Mohammedans to eat and mix with Jews and Christians. "He also wrote a commentary on the Bible called the *Tabyin-ul-Kalam*" to remove misunderstandings from the minds of Mohammedans and Christians. And when Sir William Hunter's book, Our Indian Mussalmans, was published Sir Syed Ahmed wrote powerful rejoinders in the *Pioneer*, which, says Justice Shah Din, "brought conviction home to many an official sceptic, and the ominous cloud that hung for a time over Muslim loyalty soon rolled away."[2] Again when the M.A.O. College was founded at Aligarh the chief object that Sir Syed Ahmed had in his mind as he himself stated it in the address presented to Lord Lytton at the time (in 1877) was to reconcile Oriental learning with Western literature and science, to make the Muslims of India worthy and useful subjects of the British Crown, to inspire in them that loyalty which springs not from servile submission to foreign rule, but from a genuine appreciation of the blessings of good government."[3] Thus Sir Syed did all he could to infuse a spirit of loyalty in the minds of his co-religionists and to win the friendship of the English rulers and their favour for his Muslim brethren.

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1. Shah Din : Sir Syed Ahmed as a Political Leader, p. 413. Hindustan Review of December 1905.
2. *Ibid.*, p. 414.
3. *Ibid.*, January 1909, p. 53.

III

In the year 1885, the Indian National Congress was founded and the question which was agitating the minds of all thinking men at the time was : What will Sir Syed Ahmed do ? Will he join the Congress or will he keep away with his large following and split the ranks of the nation ? Some of the Congressmen were hopeful. As early as 1860 Sir Syed had advocated the inclusion of Indians in the Legislative Councils in his famous book : "Causes of the Indian Revolt." In 1866 he was advocating the foundation of the British Indian Association—which has been described as the forerunner of the Congress and the speech that he delivered on the occasion was truly remarkable. He asked the people to give up fear and be manly, frank and honest and tell the British openly what their grievances were. He denounced the habit of fretting and brooding and condemning measures in their homes but of representing them as just and wise when they met Englishmen. "Believe me," he said, "this moral cowardice is wrong.....far batter it would be to the interests of India to speak out openly and honestly their opinions as to the justice or otherwise of the acts of government."[1] In 1877 when Sir Surendranath Bannerjee toured Northern India in connection with the Indian Civil Service agitation Sir Syed Ahmed presided over the Aligarh meeting held in favour of holding simultaneous examinations.[2] He also gave his hearty support to the Ilbert Bill and to the principle of equal justice to both English and Indians alike. And above all in his Punjab tour in 1884, Sir Syed had spoken eloquently of the common interests of all communities and of his strong love of the country and had made an impassioned appeal for co-operation and united action. In one of his speeches he said : "We (*i. e.*, Hindus and Mohammedans) should try to become one heart and soul and act in unison. If united, we can support each other. If not, the effect of one against the other would tend to the destruction and downfall of both....."[3] And, in his reply to the Indian Association's address, after paying an eloquent tribute to the Bengalees, he said : "With me it is not so much worth considering what is their religious faith, because we do not see anything of it. What we do see is that we inhabit the same land, are subject to the rule of same governors, the fountains for benefits for all are the same, and the pangs of famine also we suffer equally."[4]

With such utterances Sir Syed might have been expected to co-operate with the other Indian leaders who were trying to create

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1. Hindustan Review, December 1902, p. 505.

2. Ten years later, however, as a member of the Public Services Commission, Sir Syed did not support Sir Romesh Mitter and Rao Bahadur Nulkar's note in favour of simultaneous examinations, but signed the Majority Report against simultaneous examinations.

3. Gurdaspur Speech of 27 January, 1884, quoted in Eminent Mussalmans, published by G. Natesan and Co., Madras, p. 32.

4. *Ibid.*, p. 33.

an Indian nation and a national platform for voicing the needs, grievances and wishes of the people. But his love for his community proved stronger than that for his adopted motherland—and in spite of his sound opinion of only one year earlier, that "the effect of one against the other would tend to the destruction and downfall of both"—he chose not only to non-co-operate with the Congress but also to organise active opposition to it by founding with Raja Shiv Prasad of Benares the Patriotic Association.

What were the causes of this separatist action is a question that has been widely discussed. Sir Syed's defenders have laid stress on the violent nature of the Congress propaganda ; the excitable temperament and backwardness of the Muslims which might have wrecked the Congress and resulted in another open rebellion to the detriment of the Muslim community and of the whole nation ; and on the lack of any provisions in the Congress programme protecting the rights and interests of religious minorities.[1] His opponents, on the other hand, have laid emphasis on the more selfish reasons—of ingratiating his community in the good graces of the Government, of the desire to steal a march over the other communities, and to promote the temporary interests of his community, even at the risk of injuring the permanent interests of the nation.

It is unfortunate that a nationalist Muslim like Maulana Shibli, who was the colleague of Sir Syed at the Aligarh College for fifteen years and who witnessed the tragic transformation in Sir Syed from a progressive nationalist into a reactionary communalist, considered it "harmful to our cause"[2] to disclose the reasons for the unfortunate transformation. "Whatever be Maulana Sahib's reasons for not clarifying the whole question then," comment Ashoka Mehta and Achyut Patwardhan, "time has answered it for us. It was the subtle influence exercised over the ageing leader by the European Principal of the Aligarh College that was mainly responsible for the change in Sir Syed Ahmed's politics."[3] This was tacitly acknowledged by Sir John Strachey, who wrote in the London Times on the death of Principal Beck in September 1899 : "An Englishman who was engaged in Empire-building activities in a far-off land has

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1. It is true that Sir Syed Ahmed regarded the system of election pure and simple as unsuited to Indian conditions and he had expressed his views at length in his speech in the Legislative Council in January 1883 on the C. P. Local Self-Government Bill. He said, "I am convinced the introduction of the principle of election, pure and simple, for representation of various interests on the local boards and district councils, would be attended with evils of greater significance than purely economic considerations." He obviously wanted it to be supplemented by nomination of representatives of minority communities. It is wrong to say that he had, at that time, in view communal electorates.

2. Maulana Shibli wrote about Sir Syed that "nature had meant him to be leader of all India. But circumstances and his surroundings made him pull the Muslims back from playing their part in the nationalist movement. Why did it happen ?.....It is unnecessary to answer.....now. Nay, to answer... ...might prove harmful to our cause." Ashoka Mehta and Patwardhan : The Communal Triangle in India, pp. 23-24.

3. *Ibid.*, p. 24.

passed away. He died like a soldier at the post of his duty. The Muslims are a suspicious people. They opposed Mr. Beck in the beginning suspecting him to be a British spy, but his sincerity and selflessness soon succeeded in his gaining their confidence."[1]

Principal Beck was successful in his imperialist mission. He misled Sir Syed "into believing that while an Anglo-Muslim alliance would ameliorate the condition of the Muslim community, the nationalist alignment would lead them once again to sweat, toil and tears. He was further led to believe that supporting the Government was the surest way of making up the leeway for his community. As a result, his unique influence was used to keep the Muslims, particularly in Northern India, away from the Congress."[2] Writes an Indian Mussalman :—"Even after the go-cart stage when they could stand on their own legs, they did not feel themselves disposed to go out of the beaten track marked out by Sir Syed and to take the free run of the political field. Sounding to its very depths the mind of the *Sirkar*, they came to the conclusion that their salvation lay not in joining the Congress.....sectional selfishness, distrust, race-hatred, a desire to stand in the good graces of the Government and above all an instinct of self-preservation kept the gulf wide between the Mohammedans and the Congresswallas ....."[3]

The year after the Congress met for the first time Sir Syed Ahmed started the Muslim Educational Congress (the name was later changed to Conference), whose sessions were also to be held at the same time as those of the National Congress, to focus the attention and interests of the educated Muslims and to keep them away from the Congress and the field of political criticism. The political policy that he and his community followed was of active co-operation and support to the British Government, display of loyalty to the British Crown, and of condemning all criticism of government action as disloyal.

IV

The theory of "counterpoise of natives against natives," to use the phrase first invented by the Punjab Army Reorganization Committee in 1859, or of *Divide et Impera* (Divide and Rule), as it is more popularly called, was first applied by the British in Indian administration to the Indian Army in 1861. It was believed not only by Sir Syed Ahmed but also by the army authorities that the Sepoy Revolt of 1857 was due to the spirit of unity and comraderie fostered by the mixing of men of diverse sects, castes, communities and provinces in one and the same regiment. And in order to make the recurrence of such revolts impossible in the future, the Indian

1. Mehta and Patwardhan : The Communal Triangle in India, p. 61.
2. *Ibid.*, p. 24.
3. An Indian Mussalman : Indian Mussalmans and Indian Politics, Hindustan Review, January 1909, p. 55.

Army was reorganised on the "class basis". In civil administration, however, it was considered necessary to win the confidence of the people by following a policy of "holding the scales even" between men of different communities for several decades after the Mutiny. Leaving aside individual cases of partiality or favouritism or rewards for special acts of loyalty, distinctions were not generally drawn on communal lines in filling government posts or in distributing other rewards or honours. This was stated by Sir Alfred Lyall in his Asiatic Studies : "We must work on our broad notions of essential justice and expediency ; we cannot continually twist and modify them so as to fit in with the curves and angles of accidental and temporary prejudices in India. We cannot gaurantee to the Mussalmans what would be unfair to other Indian fellow-subjects. We must continue to enlist the best man into our services, whoever they may be."[1] But as time went on the Muslims in India began to press the Government for special treatment. In the addresses that were presented to the Viceroys and Governors by the Muslim bodies there was always—their "inevitable concomitant," to use the words of Lord Curzon—"a complaint of relatively backward position and a request to Government to redress the balance by giving them more posts in the higher ranks of the service."[2] And the reply of the British Administrators used to be—as stated by Sir John Woodburn—that "the remedy lies with yourselves, and with the leaders of your community. The opportunities for qualifications in all branches of education are now at your door, and particularly for instruction in those active avocations, in which your Mohammedans excel."[3] Lord Curzon was still more emphatic. He said : "There are certain things which I cannot do ; I cannot create special opportunities or exemptions in your favour." He did not believe in yielding to the cry "for artificial ropes and pulleys to haul them up."[4]

But the Government policy was soon changed. This was done in the interest of the security and permanence of British rule in India. Gradually the class which was agitating for reforms and for the Indianisation of the administration was increasing. Some of the younger men among the nationalists were beginning to talk of independent and self-reliant action. A new spirit was abroad among the Hindu young men. And the British Bureaucracy felt that the time had come to isolate the irreconcilables and to rally the others to its side. The policy of rallying the loyalists – the Muslims, the Moderates, the Princes and the landed magnates—was fully worked out in the first Reforms Dispatch of the Government of India to the Secretary of State. But a very important beginning was made during Lord Curzon's regime through the Partition of Bengal.

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1. Quoted in the Kayastha Samachar, August 1902, p. 122.
2. Quoted from the reply of Lord Curzon to the Madras Mohammedans' Deputation in 1899—see Kayastha Samachar, August 1902, p. 121.
3. *Ibid.*, p. 123.
4. *Ibid.*, p. 122.

have already described the story of the Partition and the policy of favouring the Muslims adopted in that connection, and, I do not think, it is necessary, to add anything more here. What remains to be done is to relate the stages by which the policy of rallying the Mohammedans was carried out in the Reforms of 1909.

V

In 1885-86, as stated above, Sir Syed Ahmed had persuaded the large bulk of his community to eschew politics and to devote its energies to education. But towards the close of his life—writes the author of the sketch of Sir Syed Ahmed in the "Eminent Mussalmans"—"Sir Syed felt the justice of the Congress demands. He realised with bitterness the disadvantageous position of his countrymen in the Councils of the Government and went so far as to despair of equality of treatment between the 'conquerors' and the 'conquered', even in the distant future."[1] This was largely due to the enforced resignation of his son, Syed Mahmud, from the Allahabad High Court Bench in 1892. Be that as it may, Sir Syed agreed in 1893 to the starting of a political association for the protection of Muslim interests. This association was called the Mohammedan Defence Association of Upper India and contained selected representatives from the various provinces—with Syed Mahmud and Principal Beck of the M. A. O. College as secretaries. The objects of the Association were the promotion and defence of Muslim interests by means of representation to Government and not through agitation and political propaganda, to support measures that would strengthen British rule in India and to spread feelings of loyalty among the Muslims. Its main purpose was to keep the Muslims away from the Congress and to make the gulf wider between the Hindus and the Muslims and to promote Anglo-Mohammedan collaboration. Writes Mr. Beck in an English Journal :— "The objective of the Congress is to transfer the political control of the country from the British to the Hindus. It demands the repeal of the Arms Act, reduction of military expenditure and the consequential weakening of the frontier defences. Mussalmans can have no sympathy with these demands.....It is imperative for the Muslims and the British to unite with a view to fight these agitators and prevent the introduction of democratic form of government, unsuited as it is to the needs and genius of the country. We, therefore, advocate loyalty to the Government and Anglo-Muslim collaboration."[2]

There had also come into existence at various places in the country Moslem Associations. *Anjuman-i-Islamia* and Young Men's Mohammedan Associations, which took spasmodic interest in political questions. But they were not primarily political associations. The Moslem young men coming out of Aligarh and from the various

1. Eminent Mussalmans, p. 35.

2. Mehta and Patwardhan : The Communal Triangle in India, pp. 59-60.

Indian and foreign Universities began to feel the necessity of a regular political association like the Congress. In September 1901, Sir Mohammad Shafi wrote a series of articles in the *Observer*, Lahore, advocating the formation of the Indian Muslim League. In the U. P. it was decided to recommend the formation of both separate provincial associations as well as an all-India "corporation" to protect the rights and privileges of the Mussalmans in the same year (1901). But nothing was actually done till December 1906 when the All-India Muslim League was ushered into existence as a result of the discussions at Simla among the members of the famous Muslim Deputation of October 1st.

It was given out by Maulana Mohammad Ali in 1920—it was an open secret before—"that the Deputation was a 'command' performance."[1] Arrangements were made through Principal Archbold[2] of the Aligarh College, who had settled all details regarding the organisation of the Deputation and the text of the Address to be presented with Colonel Dunlop Smith, the private secretary of the Viceroy at Simla. They were communicated to Nawab Mohsin-ul-Mulk, the successor of Sir Syed Ahmed at Aligarh and to the leadership of the loyalist Muslims—in a letter dated August 10th 1906—which ran as follows :

"Colonel Dunlop Smith, Private Secretary of His Excellency the Viceroy, informs me that His Excellency is agreeable to receive the Muslim Deputation. He advises that a formal letter requesting permission to wait on His Excellency be sent to him. In this connection I would like to make a few suggestions. The formal letter should be sent with the signatures of some representative Mussalmans. The deputation should consist of the representatives of all the provinces. The third point to be considered is the text of the address. I would here suggest that we begin with a solemn expression of loyalty. The Government decision to take a step in the direction of self-Government should be appreciated. But our apprehension should be expressed that the principle of election, if introduced, would prove detrimental to the interests of the Muslim minority. It should respectfully be suggested that nomination or representation by religion be introduced to meet Muslim opinion. We should also say, that in a country like India due weight must be given to the views of Zamindars.

Personally I think it would be wise of the Muslims to support nomination, as the time to experiment with elections has not yet come. In elections it will be very difficult for the Muslims to secure their due share. But in all these views I must be in the background.

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1. Congress Presidential Address, Indian Annual Register 1924, Vol. II, Supplement, p. 27.

2. Before his death, Principal Beck had arranged for his successor who was Sir Theodore Morrison, later member of the India Council. He was succeeded by Mr. Archbold, an ambitious Englishman, fired with Mr. Beck's zeal to 'serve' the Muslim interests.

They must come from you—I can prepare for you the draft of the address or revise it. If it is prepared in Bombay I can go through it, as, you are aware, I know how to phrase these things in proper language. Please remember that if we want to organize a powerful movement in the short time at our disposal, we must expedite matters."[1]

The instructions contained in the letter were scrupulously followed and the Muslim Deputation, consisting of 35 influential Muslims from the various provinces, under the leadership of H. H. the Agha Khan, waited upon His Excellency, the Viceroy, at Simla on October 1st, 1906. The address presented was drafted on the lines suggested in the letter of Mr. Archbold. It was largely the work of Mr. Syed Hussain Bilgrami and Sir Ali Imam and was most likely revised by Principal Archbold.

The address which was presented to H. E Lord Minto at Simla on October 1, 1906, was a long and an important document. It made two important demands on behalf of the Muslim community. First, that "the position accorded to the Mohammedan community in any kind of representation, direct or indirect, and in all other ways affecting their status and influence, should be commensurate not merely with their numerical strength, but also with their practical importance and the value of the contribution which they make to the defence of the Empire" and with due regard to "the position they occupied in India a little more than a hundred years ago....."[2] Second, that the methods of nomination as well as of election prevailing heitherto had failed to give them the proper type or adequate number of representatives and that in the proposed reforms they should be given the right of sending their own representatives themselves through separate communal electorates. The address outlined "an elaborate scheme for Muslim representation, begining with the Municipal and District Boards and going right up to the Imperial Legislative Council including the Senates and Syndicates of Indian Universities. For instance, in the case of the Imperial Legislative Council, the Deputation urged that "(*a*) in the cadre of the Council the proportion of Mohammedan representatives should not be determined on the basis of numerical strength of the community, and that in any case the Mohammedan representatives should never be in an ineffective minority ; (*b*) as far as possible, appointments by election should be given preference over nomination ; (*c*) for purposes of choosing Mohammedan members, Mohammedan landowners, lawyers, merchants and representatives of other important interests, of a status to be subsequently determined by Your Excellency's Government, Mohammedan members of the Provincial Councils and Mohammedan Fellows of Universities should be invested with electoral powers to be exercised in accordance with such procedure as may be prescribed by Your Excellency's Govern-

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1. Mehta and Patwardhan : The Communal Triangle in India, p. 62.
2. Hindustan Review, February, 1909, p. 146.

ment in that behalf."[1]

Besides these two important demands the Deputation also asked for greater representation in the services, protection of their interests in case an Indian Executive Councillor was appointed, and help in founding a Muslim University. And the address concluded "that, in furthering Mohammedan interests, Government will be only strengthening the bond of loyalty and laying the foundation of their political advancement and national prosperity."[2]

Lord Minto in his reply accepted the position taken up by the Deputation and gave an assurance "that their political rights and interests will be safeguarded in any administration with which I am concerned."[3] The whole passage is so important—it is described by Lord Minto's biographer "as a Charter of Islamic Rights"—that I quote it *in extenso*. Said His Excellency :

"The pith of your address, I understand it, is a claim that, in any system of representation, whether it affects a municipality, a district board or legislative council in which it is proposed to introduce or to increase the electoral organisation, the Mohammedan community should be represented as a body. You point out that in many cases electoral bodies as constituted cannot be expected to return a Mohammedan candidate, and that, if by chance they do so, it can only be at the sacrifice of such a candidate's views to those of a majority opposed to his own community, whom he would in no way represent, and you justly claim that your position should be estimated not merely on your numerical strength but in respect to the political importance of your community and service that it has rendered to the Empire. I am entirely in accord with you. Please do not misunderstand me ; I make no attempt to indicate by what means the communities can be obtained, but I am as firmly convinced as I believe you to be, that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent."[4]

Thus was the principle of communal representation accepted by the representative of the Crown in India. The underlying motive is revealed by the biographer of Lord Minto in a significant sentence : "The speech undoubtedly prevented the ranks of sedition being swollen by Muslim recruits, an inestimable advantage in the day of trouble which was dawning."[2]

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1. Hindustan Review, February, 1909, pp. 149-50.
2. *Ibid.*, p. 150.
3. An Indian Mohammedan : British India, p. 486.
4. Buchan : Lord Minto, p. 244.
5. *Ibid.* It may be interesting to record here the views of Lord Morley on the speech of Lord Minto. Writing on December 6, 1909 on his differences with Lord Minto on the question of Muslim representation, Lord Morley says :— "I won't follow you again into our Mohammedan dispute. Only I respectfully

The Government of India took full two years to evolve its scheme of representation embodying the principle of communal representation for the Muslims. In its dispatch of October 1st, 1908, to the Secretary of State, the Government of India said in connection with Muslim representation on the Indian Legislative Council: "After carefully considering the demands of the Mohammedans themselves and views expressed by the Hindus, we think, that the claims of the former will be adequately met if four elective seats are assigned to them, and provision is made for a fifth seat being filled by nomination until suitable machinery for election can be devised. The four elective seats should be permanently assigned to the four provinces which have the largest Mohammedan population, namely Bengal, Eastern Bengal and Assam, the Punjab and the United Provinces. The fifth seat should be given alternately to Bombay and Madras, where the Mohammedan population is smaller."[1] As to the formation of electorates it was the belief of the Government of India that no one system was possible for all the provinces. "Our view is," says the Dispatch, "that in provinces where election by a regular Mohammedan electorate is feasible that method should be adopted; that Mohammedan associations should be made use of where electorates cannot be formed; and nomination by Government should be resorted to where neither of the first two methods is practicable."[2] As far as the Provincial Councils were concerned certain number of seats were to be assigned to the Muslims and they were to be filled through separate electorates consisting of men paying a certain amount of land revenue, or paying income-tax or who were registered graduates of an Indian University of not less than five years' standing.

Lord Morley did not approve of the plan of separate electorates submitted by the Government of India for both Mussalman- and the landlords. Other communities were to be represented indirectly through non-official members of the Provincial Legislatures in the case of the Indian Legislative Council and through Municipal and District Board members in case of the Provincial Councils. These proposals, Lord Morley held in his Dispatch of November 27, 1908, were open to several objections. Apart from the objections of the Indian nationalists to any system of separate communal electorates—they were of opinion that separate electorates will widen the gulf between the Hindu and the Muslims and will retard the growth of the national spirit—there were two main objections mentioned by the Secretary of State. The first was that the proposals of the Go vernment of India created an invidious distinction between the Muslim s and the Hindus; and, secondly, they would give the

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remind you once more that it was your early speech about their extra claims that first started the *M. Hare.* I am convinced my decision was best". Recollections, Vol. II, p. 325), Lord Morley's proposal described on pp. 195-96 *infra.*

1. Mukherjee: Indian Constitutional Documents, Vol. I, p. 293.
2. *Ibid.*, p. 294.

Muslims in several cases two votes instead of one. In order to remove these defects Lord Morley proposed a scheme of joint electoral colleges for the election of all candidates belonging to different communities and classes. According to this scheme, each electoral college was to consist of elected representatives of the people of various communities and classes—in the proportion assigned to each community or class. For instance, let us suppose, that it was desirable to elect three Hindus and one Muslim from a particular area. In that case, an electoral college of 75 Hindus and 25 Moslems may be created. "This Electoral College should be obtained by calling upon the various electorates, which might be (*a*) substantial land-owners paying not less than a fixed amount of land revenue ; (*b*) the members of rural or sub-divisional Boards ; (*c*) the members of District Boards ; and (*d*) the members of Municipal Corporations, to return to it such candidates as they desired, a definite number being allotted to each electorate. Out of those offering themselves and obtaining votes, the 75 Hindus who obtained the majority of votes should be declared members of the college, and the 25 Mussalmans who obtained the majority should similarly be declared elected. If the Mussalmans returned did not provide 25 members...the deficiency would be made good by nomination."[1] Each member of the electoral college was to have one vote and the result would be to elect three Hindus and one Muslim, as desired.

Lord Morley commended his scheme to the consideration of the Government of India with useful remarks as to its merits and demerits, which deserve quotation. He wrote : "No doubt it removes the primary voter by more than one stage from the ultimate choice ; and it does not profess to be simple. I can only say that it is quite as simple as any system for the representation of minorities can ever be. The system of a single vote, which is an essential part of it, is said to work satisfactorily in places where it is already in existence, and it is easy of apprehension by the electors. It would have several great advantages. It would bring the classes specially concerned within the popular electorate, and so meet the criticism of the Hindus..... ; second, it establishes a principle that would be an answer to further claims for representation by special classes and associations ; third, it would ensure the person chosen being actually drawn from the locality that the Electoral College represents ; fourth, it would provide a healthy stimulus to interest in local self-government by linking up local bodies.....more closely with the provincial Legislative Council."[2]

Indeed, the scheme of representation proposed by Lord Morley was best, under the circumstances existing then in India. It would have ensured adequate representation of all communities and classes without introducing invidious dictinctions between one community and another and without injuring the national interests of the

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1. Mukherjee : Indian Constitutional Documents, Vol. I, p. 315.
2. *Ibid.*, p. 316.

country. But that was not to be ; the Muslims and their friends in the Bureaucracy[1] insisted that Muslim interests could only be protected properly through separate communal electorates and that joint electoral colleges will not give them the right type of representatives and ultimately they triumphed over the Secretary of State.

VI

It may appear surprising that a sapling of hardly two years should have succeeded in brow-beating one of the most powerful and experienced among the modern Secretaries of State : but such appears to be the fact. The All-India Muslim League was formally founded in December 1906 at Dacca where Muslims from the various provinces had assembled in connection with the Muslim Educational Conference. Its constitution was framed in December 1907 at Karachi but was not ratified till March 1908 at Lucknow. It was thus in December 1908, that the Muslim League held its first regular session at Amritsar with Sir Syed Ali Imam in the chair. According to the constitution of the League there was a permanent President, who was H. H. the Agha Khan till 1913, when he resigned owing to a radical change being made in the creed of the League that year.

The All-India Muslim League, like the Indian National Congress, had affiliated to it Provincial Muslim Leagues and also a London Branch, with Sir Syed Amir Ali as the President. The objects of the League were defined as follows by its constitution : "(1) to promote among Indian Musiims feelings of loyalty towards the British Government, and to remove any misconception that may arise, as to the intentions of the Government with regard to any of its measures ; (2) to protect the political and other rights of Indian Muslims and to place their needs and aspirations before the Government in temperate languago ; (3) so far as possible, without prejudice to the objects mentioned under (1) and (2) to promote friendly feelings between Muslims and other communities of India."[2]

The League, as it was founded, was thus a loyalist association organised for pressing the special demands of the Muslims on the attention of the Government. During the first two years (1906 and 1907) "the resolutions passed at the Central and Branch Leagues continually harped on one point—the copious distribution of official 'loaves and fishes'."[3] But as time went on it assumed a more inde-

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1. It was the opinion of Mr. Ramsay Macdonald that it were the Anglo-Indian officials who were really responsible both for the demand and for the introduction of communalism in Indian Politics. For instance he wrote in his book : The Awakening of India : "The Mohammedan leaders are inspired by certain Anglo-Indian officials, and that these officials have pulled wires at Simla and in London and of malice afore-thought sowed discord between the Hindu and the Mohammedan communities by showing the Muslims special favours," p. 176.

2. Hindustan Review, April 1909, pp. 346-7.

3. *Ibid.*, p. 350.

pendent attitude and even began to issue threats of disloyalty, if its demands were not granted. In his Presidential Address of 1908, Sir Sayed Ali Imam asserted, on behalf of educated Muslims, that "we yield to none in veneration and affection for our Motherland," and that there were no differences between the League and the Congress on any of the important questions of practical politics.[1] The difference lay mainly in regard to aims and methods. The Indian National Congress wanted the attainment of Self-Government on colonial lines : whilst the League was content to demand the steady pursuit of administrative reform and the due satisfaction of the natural ambition of Indians educated under a liberal system."[2] In explaining this difference Sir Ali Imam said : "Has not his ideal of Self-Government, however elevated, caused impatience, and has not this loss of equipoise created extremism, and has not extremism given birth to anarchism, bombs, secret societies and assassinations"?[3] The League, therefore, preferred a humbler ideal and quieter methods.

However, on the subject of communal representation it adopted a very strong attitude and threatened the Government with withdrawal of support and loyalty if its demands were not conceded. The League opposed the scheme for joint electoral colleges and insisted on "representation on a purely denominational basis."[4] A big agitation, "in press and on platform, in England and in India .....was organised to exact communal representation."[5] In England Mr. Amir Ali and Major Syed Hasan Bilgrami tried to persuade Lord Morley through letters in *The Times*, but when they did not prove sufficient, an influential deputation was organised which waited upon the Secretary of State. Lord Morley's reply was diplomatic and not very definite. "Not satisfied with Lord Morley's sops-in-promise, the All-India Muslim League again approached Lord Minto with a Memorial"[6], traversing the same ground which was covered by the London Address of Lord Morley.

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1. He gave a list of 14 such questions : (1) The separation of the judicial from the executive functions ; (2) the repeal of degrading colonial ordinances ; (3) the extension of primary education ; (4) the admission of Indians.....in larger number into higher branches of the public services : (5) the adoption of measures of sanitation ..... ; (6) discontinuance of official interference in matters of Local self-government ; (7) reasonable reduction of military expenditure..... ; (8) recognition of the right of warlike races of India to serve as volunteers ; (9) the grant of Army Commissions to Indians ; (10) an equitable adjustment of Home Charges ; (11) limitation of land revenuc..... ; (12) establishment of village unions .....(13) encouragement and protection of Indian arts and industries ; (14) eradication of insolence on the one hand and feelings of inferiority and mortification on the other between the rulers and the ruled. *Ibid.*, pp. 350-51.

2. Hindustan Review, April 1909, p. 351.

3. *Ibid.*, p. 354.

4. *Ibid.*, p. 365.

5. *Ibid.*, pp. 320-36.

6. *Ibid.*, p. 323.

It had the desired effect. The Government of India supported the Muslim demands and the Secretary of State gave in and accepted the scheme of separate communal electorates for the Muslims.

VII

Whilst the new communal organisation of the Muslims was pressing the demand for communal electorates it was being opposed strongly by the nationalist organs and leaders in the country, both Hindu and Mohammedan. The nationalist case was ably stated by Lala Lajpat Rai and Mr. C. Y. Chintamani—both showed the unfairness and mischievous nature of the Muslim demands and pointed out the harmful effects of accepting the principle of separate communal electorates and of larger representation to minorities than their numerical strength warranted. They were supported by some of the patriotic Mohammedans. For instance, Nawab Sadiq Ali Khan, Bar-at-Law, speaking at Lucknow in 1908 said: "The principle of class and religious representation is a most mischievous feature of the scheme.....It is not good for Mohammedans to be taught that their political interests are different from those of the Hindus..... From a Mohammedan standpoint too, in my humble opinion, that principle is fraught with mischief."[1] Another Mohammedan speaking on the same occasion, boldly asserted: "In order that we may not succeed in our efforts to unite India into one nation, it is suggested that there must be separate Mohammedan electorates. This will promote disunion between us, but if we were elected by a common electorate, we shall come into close contact."[2] Writing in 1911, Mr. Ramsay Macdonald says: Some of the farseeing members of the Mohammedan community are already beginning to feel that they have made a mistake. Several spoke to me with bitterness about the way that certain of their leaders had consented to play a game planned for them by Anglo-Indian officials, whilst in the minds of others who were still in favour of what had been done a knowledge was dawning that there were dangers ahead and that they might have been better protected if they had not asked for so much."[3]

Whatever may be the differences among the Mohammedans as to the wisdom or otherwise of the step, there was general agreement among Indians that it was a cleverer move on the part of bureaucracy to prevent the people from uniting together[4] and to

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1. Hindustan Review, April 1909, p. 323.
2. *Ibid.*, p. 324.
3. Macdonald: The Awakening of India, p. 129.
4. Writes Mr. Macdonald: "Whether this was done deliberately and diabolically on the principle of "Divide and Rule", or whether it was a mere blunder showing once again how very little some of our responsible officials understand India or can estimate the effects of their actions, the public cannot say, because the true explanation of Lord Minto's speeches. Lord Morley's counter-speeches and the contradictory dispatches is still a secret." *Itid*, p. 177.

deprive the reforms of much of their utility. As an Indian Mussalman put it in the Hindustan Review of April 1909 : "The attempt on the part of my co-religionists 'to create an irrenconciliable Ulster in India' is not very laudable." And he remarked most prophetically : "This will veritably be the opening of Pandora's box and India will then be confronted with a grave situation of the first magnitude."[1]

1. Hindustan Review, April 1909, p. 357.

16

MORLEY-MINTO REFORMS

I

The Morley-Minto Reforms were welcomed warmly by th Indian Moderates but the Regulations framed by the Governmen of India under the Indian Councils Act, 1909, embodied in the Government Resolution on Reforms dated November 15, 1909, were severely criticised at the Congress Session of December, 1909. It was the opinion of Sir Surendranath Bannerjee "that the Rules and Regulations have practically wrecked the reforms scheme."[1] However, before discussing the merits and demerits of the Reforms—the Act and the Regulations—it is necessary to examine the nature of the Reforms.

II

The first important reform associated with the names of Lords Morley and Minto was the appointment of Indians to the Councils of both the Secretary of State and the Viceroy, *i.e.*, to the India Council and the Governor-General's Executive Council.

The question of appointing an Indian to the Viceroy's Executive Council was first discussed by Lord Minto with some members of his Council in March 1906. It was referred to the Arundal Committee on Reforms by the Viceroy. The Committee was evenly divided on the question but in the Council there was strong opposition[2] to the proposal—only one member voting in its favour. But, nonetheless, the Viceroy was "quite ready to stand the shot," because, in his opinion, the reasons of those who opposed were "generally very narrow, based almost entirely on the assumption that it is impossible to trust a native in a position of great responsibility."[3] Moreover, Lord Minto did not take a very serious view of the official opposition but he was afraid of "the native agitation" in case no Indian was appointed. However, the Secretary of State and the Cabinet in England were not prepared

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1. Mrs. Besant : How India Wrought for Freedom, p. 495.
2. Lord Kitchener and Sir Denzil Ibbetson were the two strongest opponents.
3. Buchan : Lord Minto, p. 253.

to ignore the views of the members of the India Council and the Viceroy's Executive Council and of persons like Lord Ripon and Lord Elgin.[1] As Lord Morley wrote to Lord Minto : "On the Indian member, the ruling considerations were the attitude of your Council and mine ;[2] and second, the possible risk of Anglo-Indian fit of wrath and fear."[3] Lord Morley, however, decided to take an important step on the same road by announcing in his Budget Speech of July 1907 his intention of appointing one or two Indians on his own Council. For this purpose the constitution of the India Council was amended by an Act in August 1907. And before the end of August 1907 two Indians were appointed members of the India Council. They were Mr. K. G. Gupta—a Hindu Civilian—and Syed Hussain Bilgrami, "shrewd, competent and loyal," then the principal adviser of the Nizam of Hyderabad, and one of the authors of the Address presented by the Muslim Deputation to the Viceroy on October 1, 1906.

Lord Morley attached great importance to the appointment of two Indians on the India Council as it then became merely a question of time as to when the next step would be taken and an Indian appointed to the Executive Council of the Viceroy.[4] This was actually done on March 24th, 1909, when Mr. S.P. Sinha—later Sir Styendra and afterwards Lord Sinha—then Advocate General of Bengal—was appointed the Law Member of the Government of India.

It must not, however, be understood that this was done without opposition. When on December 17, 1908, Lord Morley first made the announcement in the House of Lords of his intention to appoint an Indian to the Viceroy's Executive Council in case a vacancy arose it was greeted with opposition both inside and outside the House of Lords, which made Lord Morley write to the

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1. The opposition of Lords Ripon and Elgin was based mainly on the secrecy argument—that the member would have to know military and foreign secrets, etc.

2. The India Council was unanimous in opposing the proposal.

3. Morley : Recollections, Vol. II, p. 212.

4. Writing to Lord Minto on July 18th, 1907 Lord Morley regarded his appointment of two Indians on his Council as a first step which "ought to make a great move, leaving the appointment of an Indian Member on your Council for some other not too distant a date." Morley : Recollections, Vol. II, p. 226.

The Indian point of view was expressed by the September 1907 issue of the Hindustan Review thus : "A pretence must be made of satisfying Indian opinion and sentiment, but what is purported to be given with the right hand must be taken away with the left hand. None must be admitted into the temple of Anglo-India at Westminster who will not say aye to every reform "adumbrated" by the Government of India. Not to say of a Dutt or a Gokhale, let alone a Mehta, not even an Ameer Ali.....will make a suitable member of that body. And even for appointing two such innocuous men.....a special Bill should be passed.....to add to the strength of the Council, so that no Anglo-Indian may be called upon to surrender his seat to an Indian."

Viceroy : "It is lucky that my appointment of an Indian member on your Executive Council does not need Parliamentary sanction, for I don't believe the House of Lords would agree."[1]

The opposition to the appointment of an Indian member on the Viceroy's Executive Council came not only from Anglo-Indians, officials and members of the India Council and the Viceroy's Council, but also from the Indian Mussalmans because they were afraid that if only one Indian was appointed the choice would fall on a Hindu. A Muslim Deputation waited on the Secretary of State and asked for the appointment of two Indians, one of whom should be a Mohammedan. That was not considered practicable by Lord Morley—as it would reduce the English element to unsafe proportions —"it would be a very serious step."[2]

III

The next step was the reform of the various Legislative Councils in India which was taken through the Indian Councils Act, 1909, and the rules and regulations framed under it.

In the first instance, the Act of 1909 increased the strength of each Legislative Council. The actual strength was fixed by the Regulations as follows :—Imperial Legislative Council, 69 ; Bengal Legislative Council, 52 ; Legislative Councils of Madras, Bombay and the U.P., 47 each ; Eastern Bengal and Assam Legislative Council, 41—after 1911,[3] when it ceased to exist two Legislative Councils were created, one for Bihar and Orissa of 44 members and the other for Assam of 25 members ; Punjab Legislative Council, 25 ; and Burma Legislative Council, 16[4]. In addition, the Head of the Government was given the power to nominate one or two experts to a provincial Legislative Council when legislation requiring expert advice was under consideration.

Each Legislative Council was to consist of three classes of members—the officials, the elected and the nominated non-officials. Their relative strength is shown in the following table. The figures given are for the year 1912 and do not include the Head of the Government or the experts.

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1. Morley : Recollections, Vol. II, p. 293.

2. Indian Speeches of John Morley, p. 265.

3. The Partition of Bengal made in 1905 was annulled in 1911 and the provincial boundaries rearranged.

4. The strength of the Councils before 1909 was as follows : Imperial Legislative Council, 25 ; Madras and Bombay Councils, 25 each ; Bengal Council, 21 ; U. P., 16 ; Eastern Bengal and Assam, 16 ; the Punjab and Burma Councils, 10 each.

Name of the Council	*Elected*	*Nominated Non-Officials*	*Officials*	*Total*
India	27	5	36	68
Madras	21	5	20	46
Bombay	21	7	18	46
Bengal	28	4	20	52
United Provinces	21	6	20	47
Eastern Bengal & Assam	18	5	17	40
Punjab	8	6	10	24
Burma	1	8	6	15
Bihar & Orissa	21	4	18	43
Assam	11	4	9	24

In the case of the Imperial Legislative Council it was considered by the Secretary of State necessary that the officials should be in a "substantial" though not "an overwhelming majority although the Government of India had originally proposed an equal number of officials and non-officials depending on the Viceroy's vote to "turn the scale". In the case of the Provincial Legislative Councils Lord Morley had advised the Government of India to give up official majorities as the powers of these Councils were very limited and the Heads of Government had the power of vetoing measures. However, it was only in Bengal that there was an elected majority.

No special qualifications were laid down in the Regulations in the case of the nominated (non-official) members. Nomination was meant to give representation to those interests which were not represented or adequately represented through election, *e.g.*, in the case of the Imperial Legislative Council it was laid down that of nominated members one must be from the Indian commercial community, one from the Punjab. Mohammedans, and one from the landholders in the Punjab. Among the officials some were *ex-officio* such as the Head of the Government and the members of the Executive Council; others were nominated by the Head of the Government.

In the case of the elected members, however, elaborate rules were laid down by the Regulations—which require separote treatment.

IV

The Regulations fixed the number of elected members for each Legislative Council, varying from 26—later raised to 28—in the case of Bengal, to only one in that of Burma.[1] They were elected only to a very limited extent through territorial constituencies. The Government of India held that conditions in India were different from those prevailing in the Western countries and that mere territorial electorates would not give proper representation to the various classes, communities and castes. They quoted figures from previous elections to prove their contention : "Of the non-official members elected to the Imperial Council since 1893, 45 per cent have belonged to the professional middle class ; the landholders have obtained 27 per cent of the seats ; and the Mohammedans only 12 per cent ; while the Indian Mercantile community, a large and increasingly important body, have had no representation at all."[2] Again, in the case of the Provincial Councils out of a total of 338 non-official members elected since 1893, "as many as 123, or 36 per cent, have been lawyers and only 77 or 22 per cent landowners."[3] To a person familiar with the constitution of representative chambers in the various parts of the world, there does not appear to be anything unusual in the figures given by the Government of India. As was pointed out by *The Statesman* of Calcutta, at the time : "In the House of Commons, in the Chamber of Deputies, in the American House of Representatives, the lawyers are in a majority." And it is natural that this should be so, because "legislation requires expert criticism, a task which the training of the lawyer enables him to perform more efficiently than the average layman. The Maharajas and great Zemindars often speak sensibly, but they have not the intellectual force by which the lawyer can produce conviction. By endeavouring to increase the number of landholders, therefore, the Government are seaking to strengthen the representation of a class unqualified for the objects which a legislature is intended to serve, at the expense of a class which has everywhere demonstrated its competence. They aim at substituting those who cannot criticise for those who can"[4] Moreover, it should be remembered that "after all the lawyer or the school master sits not as the spokesman of his own professional interests, but because his education, his quickness of wit, his power of speech have obtained for him the sufferages of the small farmers and peasant cultivators,"[5] as was put by the London

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1. For other figures, see p. 191, *supra*.
2. Mukherjee : Indian Constitutional Documents, Vol. I, p. 285.
3. *Ibid.* Vol. I, p. 261.
4. Hindustan Review, September 1907, p. 276.
5. See foot-note p. 177.

Nation. From this point of view, then, there was no difference at all between India and Western countries. Nor was there really any other fundamental difference between the Western countries and India which would have affected the problem of political representation at that time. In the Western countries also the landed interests and other classes are often inadequately represented and religious minorities like the Jews and the Roman Catholics in Protestant countries get little or no representation. But none of these countries have ever adopted the system of separate class and communal electorates. However, the Government of India decided that the special conditions prevailing in India required the creation of class, communal and special electorates.

The electorates created by the Regulations under the Act of 1909 may be divided into three main classes :—(1) General Electorates, consisting of the non-official members either of Provincial Legislative Councils or of the Municipal and District Boards ; (1) Class Electorates, comprising of (*i*) Landholders constituencies ; (*ii*) Mohammedan electorates ; and (*iii*) Special Electorates consisting of Presidency Corporations, the Universities, Chambers of Commerce, Port Trusts, Planting and Trade interests, etc.

The 27 elected members of the Imperial Legislative Council were to be elected as follows :—(1) 13 members by the General Electorates—two members each by the non-official members of Bengal, Bombay. Madras and U. P. Legislative Councils and one member each by those of the Punjab, Bihar and Orissa, Assam, Burma and the C. P. Councils ;[1] (2) 6 members by special landholders' constituencies in the six Provinces—one from each—Bengal, Bombay, Madras, U. P., Bihar and Orissa, and the C.P. ;[2] (3) 6 members by separate Mohammedan Constituencies—two[3] from Bengal and one each from Madras, Bombay, Bihar and Orissa and the U.P.[4] and (4) 2 by special electorates—one each by the Bengal and Bombay Chambers of Commerce.[5]

Similarly the elected members of the Provincial Legislative Councils were returned by the three different kinds of constituencies—the General, Class and Special Electorates. To take the case of Bombay for illustration ; the 21 members of the Council were elected as follows :—(1) Eight by the General Constituencies—one

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1. Before the C. P. Legislative Council was created in 1914, one member from the C. P. was returned by an Electoral College, consisting of 50 delegates from the Municipal and District Boards.
2. One from among the landholders of the Punjab was nominated by the Viceroy.
3. One out of the two was from the special Muslim Constituency, and the Second was chosen alternately by the Bengal Muslim Landlords and the Bengal Muslim Constituency.
4. One Punjab Muslim was to be nominated by the Viceroy.
5. The Chambers of Commerce were European organisations ; a member of the Indian mercantile community was to be nominated by the Viceroy.

member by the Municipalities and one by the District Boards of the Southern, Northern, Central and Sind Division respectively of the Presidency ;[1] (2) Three by the Landholders Constituencies—one by the Sardars of the Deccan, one by the Sardars of Gujrat and one by the Jagirdars and Zamindars of Sind ; (3) Four by Muslim Electorates—one by the city of Bombay and one each by the Muslims of the Southern, Northern and the Central Divisions ; and (4) six by special electorates—one each by the Bombay Corporation and Bombay University, two by the Bombay and Karachi Chambers of Commerce and the Indian Mercantile community and two by the Mill-Owners' Associations at Bombay and Ahmedabad.

The Regulations also prescribed certain qualifications for both (*a*) the candidates for election, and (*b*) the voters. "No person shall be eligible for election.....if such person—(*a*) is not a British subject, or (*b*) is an official, or (*c*) is a female, or (*d*) had been adjudged of unsound mind, or (*e*) is under twenty-five years of age, or (*f*) is an uncertified bankrupt or undischarged insolvent, or (*g*) has been dismissed from the Government Service ; or (*h*) has been sentenced by a criminal court to imprisonment for an offence punishable with imprisonment for a term exceeding six months or to transportation, or has been ordered to find security for good behaviour... or (*i*) has been debarred from practising as a legal practitioner...or (*j*) has been declared by the Governor-General-in-Council to be of such reputation and antecedents. that the election would.....be contrary to the public interest."[2] Some of these disqualifications—the last four[3]—could be removed by an Order of the Governor-General-in-Council. This regulation was severely criticised by Indians as it debarred those who had taken part in the last agitation, 1905-09, from standing for Council elections. Besides these general qualifications special qualifications were prescribed for those who were standing from the class electorates.

So far as the qualifications for the voters were concerned, it was laid down that females, minors or persons of unsound mind could not vote at any of the elections. Separate qualifications were prescribed for (*a*) the Landholders' Constituencies and (*b*) Muslim Electorates.

(*a*) Qualifications for the landholders' constituencies varied for the Imperial and the Provincial Councils, for Muslim and Hindu

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1. The non-official members of each Municipality and District Board were to elect delegates according to the population of the area to two separate Electoral Colleges in each Division. Each Electoral College was to return one member to the Council. In some other provinces delegates were elected according to Municipal or District Board income as in Bengal. In the case of Bombay each Municipality was entitled to send one del egate for each 10,000 and each District Board for each one lakh inhabitants to the Divisional Electoral College.

2. Regulation No. IV, Mukherjee : Indian Constitutional Documents, Vol. I, pp. 350-1.

3. Disqualification (*a*) also could be removed by the Governor-General-in-Council after 1914.

voters,[1] and from province to province. For the Imperial Council elections, substantial landowners with certain specified incomes[2] or certain minimum land revenue payments[3] or with high titles[4] or with certain honorary offices[5] were given the right of voting. In the case of the Provincial Councils similar qualifications were laid down, only they were lower than those in the case of the Imperial Council.

(*b*) Qualifications for the Mohammedan Electorates also varied for the Imperial and Provincial Councils and from province to province as well. It is not possible to summarise them briefly in each case. However, it may be mentioned that the number of voters for the Imperial Council in each province was smaller than for the Provincial Council and that those who paid land-revenue of a specified amount or who were assessed to income-tax or who were members of the Provincial Councils or Fellows of the Indian Universities or graduates of certain standing or government pensioners were included in the list of voters.

The candidates standing for election from the class constituencies were required to possess the qualifications of voters in those constituencies besides the general qualifications for all candidates already described above.

Before closing this Section reference may be made to three of four points. First, that all members of the Councils were required, before taking their seats, to take an oath or make an affirmation of allegiance to the Crown ; second, the term of membership was fixed ordinarily for three years ; third the scheme of caste and creed electorates proposed by the Government of India in its Circular Letter of August 24, 1907, was not adopted in the Regulations of 1909 ; and lastly, the Regulations framed to put into force the Act of 1909 were.....as was admitted by Lord Minto himself..... "extremely puzzling and often very confusing."[6] This was due to the fact that the Government was—to use again Lord Minto's

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1. As an instance of this the case of Eastern Bengal may be quoted. "A Hindu must pay Rs. 5,000 as revenue, a Mohammedan, Rs. 750 only..... The cess qualification of the former is Rs. 1,250 of the latter Rs. 188. The payment of income-tax, the receipt of a Government pension and the fact of his being an Honorary Magistrate, do not qualify Hindus for voting. They do qualify Mohammedans. Qualification for elections on the Provincial Councils show the same injustice to the Hindus. And this, be it remembered, is not in a province where there is a Mohammedan minority, but an overwhelming majority." (Macdonald, Awakening in India, p. 176). Pandit M. M. Malaviya moved a resolution in the Imperial Legislative Council on 24th January, 1911, to recommend to the Government to remove such discriminations and other defects from the Regulations.

2. In the case of Madras, it was Rs. 15,000.

3. The figure was ordinarily ten thousand rupees.

4. In Bengal those with the titles of Raja and Nawab were given the right of voting.

5. In the C. P. those who held the office of Honorary Magistrate could also vote.

6. Quoted in R. S. Iyengar's Indian Constitution, p. 155.

words—"very anxious to avoid any appearance of a Parliamentary franchise. I set my face against anything that might appear to resemble it. We did not want a Parliament at all; we wanted Councils...but did not want Councils elected on Parliamentary lines..."[1]

The constitutions of the new Councils were thus purposely made defective—so that they may not resemble the British Parliament even in their composition. But still the more important reason was the one already pointed out above and which is partly disclosed by the Circular Letter of August 24th, 1907.[2] This was to divide the slowly uniting people of India into watertight compartments on the doctrine of "counterpoise of natives against natives".

V

The Indian Councils Act, 1909, not only enlarged the size of the Councils and the number of non-official members, but it also empowered the various governments in India to make rules for extending the business of the Councils. According to the rules made under this section the Councils were given the right of discussing the financial statements and moving resolutions thereon and also of moving, discussing and voting on resolutions dealing with matters of public importance.

The main advance made by the Reforms of 1909 was in connection with the extension of the powers of discussion especially in financial matters. For instance, in the Imperial Legislative Council, after the Financial Statement has been presented by the Finance Member, any member may give notice of a resolution "relating to any alternation in taxation, any new loan or any additional grant to Local Governments proposed or mentioned in such Statement or Explanatory Memorandum." On the specified day such resolutions will be moved, discussed and voted upon by the Council. After all the resolutions have been disposed of, each head or group of heads shall be taken into consideration separately—and in case of each of these any member may move a resolution, which will then be discussed and voted upon by the Council. After all the heads or groups of heads have been disposed of, the Finance Member shall present, "on or before March 24th," the Budget—explaining any changes that may have been made in the figures of the Financial Statement, and the reasons why any resolutions passed in the Council have not been accepted."[3] A day was then fixed for general discussion of the Budget, "but no member shall be permitted to move any resolution in regard thereto, nor shall the Budget be submitted to the vote of the Council."[4] Besides these restrictions there were two others on the powers of the members to discuss financial matters. First, that

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1. *Ibid.*, p. 157.
2. Mukherjee : Indian Constitutional Documents, Vol. I, p. 262.
3. Rule No. 21 (1), R. S. Iyengar : Indian Constitution, p. cciii.
4. Rule No. 22, *Ibid.*

there were certain heads both of revenue[1] and of expenditure,[2] that were not open to discussion by the Council and, second, that the President had the right to disallow any resolution or part of a resolution without giving any specific reason.[3]

According to the Rules, the Imperial Legislative Council had also the right to discuss resolutions on matters of general public interest subject to certain limitations and the power of the President to disallow any resolution whose discussion he may consider against public interest. A notice of 15 days was ordinarily required for moving resolutions which must be in a prescribed form and raise a definite issue. Amendments may be moved in the course of discussion ; and the Council had the right of voting upon them and the resolution. The resolutions of the Council were in the nature of recommendations to the Government which the Government may or may not accept.

The right to ask questions was also slightly enlarged by the new Regulations. A member who had asked a question was given the right to put a supplementary question to elucidate the answer—however the general body of members as such were not given the right of asking supplementary questions.

Similar powers of moving resolutions, asking supplementary questions and discussing the financial statements were given by special rules framed for the purpose to members of each Provincial Council.

VI

The Indian Councils Act, 1909 also dealt with the constitution of the Executive Councils. The Government of India Dispatch, 1908 had tentatively made a suggestion in its last paragraph :—"It may be that experience will show the desirability of strengthening the hands of Lieutenant-Governors in the larger provinces by the creation of Executive Councils..... and assisting the Governors of Madras and Bombay by enlarging the Councils which now exist in those presidencies."[4] Lord Morley dealt with this question in a more definite way and considered the time ripe to take definite powers from the Parliament in this connection. In regard to the Executive Councils in the Presidencies of Madras and Bombay the Secretary of State desired "to take power to raise to four the number of members.... of whom one, at least, should be an Indian."[5]

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1. Heads not open to discussion were, Stamps, Customs, Assessed Taxes, Tributes from Native States, Courts, Army, Marine, Military Works, all purely provincial revenues, *Ibid.*, p. ccv.

2. Heads not open to discussion were Assignments and Compensations. Interest on Debt, Ecclesiastical, Political Expenditure. Territorial and Political Pensions, State Railways, Army, Marine, Military Works, Special Defences, all statutory charges, all purely provincial expenditure, *Ibid.*, p. ccv.

3. Rule No. 8, *Ibid.*, p. cci.

4. Mukherjee : Indian Constitutional Documents, Vol. I, p. 309.

5. *Ibid.*, p. 324.

The appointment of an Indian was to depend on practice and usage and not on the statute. Section 2 (1) of the Act of 1909 gave powers to the Secretary of State in Council to appoint up to four members to the Councils of the Presidency Governors. Lord Morley also considered it necessary to create Executive Councils for the other major Provinces and felt that a general power to establish Executive Councils for all Lieutenant-Governors should be taken from the Parliament. Consequently a provision was inserted to this effect in the Indian Councils Bill introduced by him in the House of Lords. However, owing to opposition in the Lords, it was dropped, but was re-introduced again in a modified form in the House of Commons and finally sanctioned by the House of Lords. According to the provision finally passed by the Parliament, the Governors-General in Council were empowered, with the approval of the Secretary of State, to create an Executive Council of not more than four members for Bengal. As far as the other major as well as minor provinces were concerned no direct power of creating Executive Councils was conferred on the Governor-General-in-Council. On the other hand power was reserved to the Parliament to stop the creation of any other Executive Council, even if the Government of India, with the approval of the Secretary of State, proposed to do so. The clause in this connection runs as follows :—"It shall be lawful for the Governor-General-in-Council, with the like approval (as in the case of Bengal), by a .....proclamation to create a Council in any other pro vince under a Lieutenant-Governor for the purpose of assisting the Lieutenant-Governor in the executive government of the pro-vin e. Provided that before any such Proclamation is made a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and, if before the expiration of that time an address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft."[1] In other words, the Act gave power to the Government to create other Executive Councils subject to the veto of the either House of Parliament. The members to the Councils of the Lieutenant-Governors were to be appointed by the Governor-General with the approval of the Crown.

VII

The Indian Councils Act, 1909 contained no provisions in regard to the creation of any Advisory Council. The Government of India had attached a great deal of importance to the creation of Advisory Councils both for the Centre as well as for the Provinces in their original proposals. The Legislative Councils were called too infrequently "to offer the means of confidential and intimate consultation.....and the strict procedure by which they are restrained naturally tends to formality."[2] Hence the proposal to

1. Section 3 (2) of the Act, Mukherjee : Indian Constitutional Documents, Vol. I, p. 247.

2. Section 3 (2) of the Act, *Ibid.*, p. 256.

create Imperial and Provincial Advisory Councils. The Imperial Council was to consist of about sixty members, out of which 20 may be Ruling Chiefs and the rest Landed Magnates from the various provinces, selected for five years, without any formal powers and with purely advisory functions on those matters specifically referred to the Council. "The proceedings of the Council.....should, as a rule, be private, informal and confidential, and they would not be published, although Government would be at liberty to make any use of them that it thought proper.[1] Similarly there would be Provincial Advisory Councils consisting of the great landholders representing the province in the Imperial Advisory Council and the representatives of "smaller landholders, industry, commerce, capital, the professional classes"[2] and the non-official Europeans, with purely advisory functions.

The proposal to create Advisory Councils met with strenuous opposition from the leaders of public opinion in India. They regarded them not only "as superfluous and illusory"[3] but also as mischievous. They were afraid that the Councils will be used to mislead British public opinion. Acts like the deportation of Lala Lajpat Rai, which are universally condemned by the educated classes would be placed before the Advisory Councils—the majority of whose members will be induced to pass resolutions of approval. The Government "will then publish the resolutions hoping thus to mislead an ill-informed and credulous British public and throw dust in the eyes of the world."[4] But "if the Advisory Council summon enough courage to pass a resolution of condemnation [on the Berar deal or on the Jhalawar deposition], the bureaucracy may easily make up their mind and satisfy their official conscience by not publishing such a resolution to the world."[4]

The formation of Advisory Councils was also opposed by the Ruling Princes and some of the Provincial Governments, notably that of Madras. The chief ground of opposition in the case of the Princes and some of the Provincial Governments was the mixing of Ruling Chiefs and territorial magnates in one and the same Council. The Government of India, therefore, decided to abandon their original scheme and made modified proposals in their Despatch of October 1908. In the first instance, they proposed to constitute only a Small Council of Ruling Chiefs, to be chosen by the Viceroy for such time as he may please and to be consulted at his discretion either individually or collectively.[5] Secondly, the proposal to constitute a separate Council of British Indian Notables was not to be proceeded with for the time being. And, thirdly, the Government of India recommended that small Advisory Councils should be crea-

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1. Mukherjee : Indian Constitutional Documents, Vol. I, p. 258.
2. *Ibid.*, p. 259.
3. *Ibid.*, p. 273.
4. Hindustan Review, September 1907, p. 285.
5. Mukherjee : Indian Constitutional Documents, Vol. I, p. 276.

ted in those provinces in which they are desired by the Heads of Government. The size was to be fixed by the Government of India, though the members were to be selected by the Local Government—the criterion being "distinction of some kind, whether arising from intellectual capacity, personal influence, or representative position."[1]

These proposals of the Government of India were neither liked nor supported by the Secretary of State. With regard to the constitution of an Imperial Council of Ruling Chiefs, he felt that the practical difficulties—"expense, precedence, housing, for instance, even if there were no others"[2]—in the way of its assembling, were too great to be overcome easily. And "if not definitely constituted with a view to assembly, it would possess little or no reality."[2] As to the establishment of Provincial Advisory Councils, Lord Morley felt that these new Councils—whether large or small—are almost certain to become rivals of the old (*i.e.*, the Legislative Councils) and, from the first, they "would be suspected as designed to be a check upon the old."[3] Lord Morley was of opinion that all the objects of the Government of India could be achieved by developing the existing practice or privately and informally consulting the important princes, on the one hand, and the leading men of each locality, on the other.

The opposition of the Secretary of State put an end to the proposal of the Government of India and the Reforms of 1909 came into force without any Advisory Councils either with the Central or the Provincial Governments in India.

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1. Mukherjee : Indian Constitutional Documents, Vol. I, p. 281.
2. *Ibid.*, p. 311.
3. *Ibid.*, p. 312.

PERIOD III

1909—1919

17

CHANGES : ADMINISTRATIVE AND CONSTITUTIONAL

I

The period 1909-1919 is the shortest epoch in the history of British rule in India ; but its importance is not to be measured by the number of years that bridge its span. It is replete with events of tremendous significance. For the first time a British Sovereign—with his Imperial Consort and one of the Principal Secretaries of State—set foot on the soil of India ; for the first time India was admitted on terms of equality in the Councils of the Empire and on international bodies ; for the first time an Indian was appointed Under-Secretary of State for India ; and for the first time the goal of British policy in India was defined to be the establishment of responsible political institutions and the vision of a federal India with autonomous self-governing units appeared on the horizon. It was during this period that the hated Partition of Bengal was modified in accordance with the wishes of the people ; the Capital of India was transferred from Calcutta to Delhi and the decision to build an imperial city there was taken and the reunion of political parties—the Moderates, the Extremists and the Muslim Leaguers—was effected and an agreed scheme of political progress was evolved by the spokesmen of the nation. It was again in this decade that the biggest conspiracy to overthrow British rule by force was hatched after 1857 ; a huge organised agitation to achieve Home Rule and to prevent the enforcement of "lawless" laws was conducted ; the ghastly tragedy of Jallianwala Bagh was perpetrated by a British General in the religious metropolis of the Sikhs ; and repression on an unprecedented scale—through repressive legislation and the administration of the Martial Law in the Punjab—was practised. The Great European War, 1914-18, was not without its effects on India and it entailed on the country a tremendous sacrifice in men and money—enhanced several fold by the terrible influenza epidemic which in the course of a few weeks swept away several million people—estimated variously from six to ten millions. And there were besides a number of events and changes both of administrative and constitutional importance—like the development of a policy of

decentralisation, the enactment of the Indian High Courts Act, 1911 and the Government of India Act, 1912 ; the appointment and report of the Public Services Commission ; the visit of Mr. E.S. Montagu and other members of the British delegation, the publication of the Report on Indian Constitutional Reforms in 1918 and the passing of the Government of India Acts, 1915, 1916 and 1919— that were witnessed during 1909—1919.

II

In February 1909 the Indian Decentralisation Commission, presided over by Mr. Hobhouse, (afterwards Sir Charles) presented its able and comprehensive report. The Report dealt with the relationships between the Government of India and the Provincial Governments on the one hand and with the Provincial Governments and the local authorities on the other ; and also between each ring of the official hierarchy and made a series of recommendations with a view to "the relaxation of control by higher authorities and the simplification of administrative methods."[1] Apart from the proposals which dealt with matters of administrative detail, the main recommendations of the Commission may be grouped under three heads— (1) those relating to the constitutions of Provincial Governments and to the delegation of powers to divisional and district officers ; (2) those relating to financial devolution ; and (3) those dealing with the expansion of the sphere of local self-government.

With regard to the constitution of Provincial Governments the Commission believed in the council system of government for all large provinces "such as exists in Madras and Bombay, with a Governor usually, but not invariably, appointed from Home. We think that all Council Governments should consist of not less than four members besides the Governor .....The enlargement would permit of the appointment of specially qualified natives of India."[2] Unfortunately, neither Lord Morley, nor even Mr. Montagu ten years later, was able to go so far as to recommend the appointment of non-civilians as Governors in all provinces as neither of these was prepared to face the displeasure of service men in India who looked forward to promotion to such prized posts. The Commission recommended the abolition of Boards of Revenue and Financial Commissioners and increase in the powers of divisional commissioners and the collectors. The Commission turned down the proposal of establishing district advisory councils on the lines of Prussian District Committees as urged both by Mr. Romesh Chandra Dutt and Mr. Gokhale.

The Commission generally approved the system of provincial financial settlements made quasi-permanent in 1904, but suggested certain modifications and adjustments, which were accepted largely by the Government and embodied in their Resolution on Provincial Finance, dated the 18th May, 1912.

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1. Report on India Constitutional Reforms, 1918, p. 3.
2. Mukherjee : Indian Constitutional Documents, Vol. I, p. 724.

The Government of India was anxious to make their financial relations with the provincial government as stable as possible but before declaring the provincial settlements as almost permanent they considered it necessary to examine certain alleged inequalities and the adjustments as proposed by the Decentralisation Commission. On the charge of inequality of treatment meted out to the various provinces the view of the Government of India was "if it exists at all, is historical and inevitable ..... whilst its very existence is doubtful." "The higgling of a quarter of a century has established a rough equality which could not be replaced by theoretical calculations." This has been successfully challenged by Dr. Gyan Chand who has asserted that "there was no equity, rough or refined in the Settlement of 1911." However, the Government of India proceeded on the assumption that there existed rough equality between the various provinces, and after removing certain other imperfections, made the provincial settlements permanent. In the first instance, in certain provinces fixed assignments had reached a high figure and, acting on the recommendations of the Decentralisation Commission, the Government of India revised the provincial settlements and made some more heads wholly or partially provincial—forests were made wholly provincial ; excise wholly in Bombay and $\frac{3}{4}$ths in the C. P. and the U. P., land revenue $\frac{1}{2}$ in the Punjab and 5/8th in Burma, and the share from major irrigation works was raised to $\frac{1}{2}$ in the Punjab. The fixed assignments were proportionately decreased.

Secondly, the policy of giving lump grants to the provinces out of Imperial surpluses was also revised in accordance with the recommendations of the Decentralisation Commission. In order to remove the defects of "the policy of doles" greater—central interference, unfair distribution, money spent on less urgent needs—the Commission had recommended the adoption of three principles in making these grants—(1) that regard be paid to the wishes of provincial governments ; (2) that the purposes for which grants are made may not be the same in all the provinces and (3) that they should not involve greater central interference. These principles were accepted by the Government of India and embodied in the new rules framed for the grant of "doles."

Thirdly, new revised rules were issued by the Government of India in connection with the control over provincial budgets, in accordance with the recommendations of the Decentralisation Commission. Control was to be confined henceforth to divided heads and to the totals only of revenue and expenditure and the Provincial Governments were given powers to overdraw upon the balances with the Central Government and to budget for a deficit under certain special conditions. It was, however, considered impractical by the Government of India to grant either the power of independent taxation or of direct access to the money market for raising provincial loans.

These were the chief modifications made by the Resolution of

1912 before making the financial settlements permanent. They were, on the whole, not of any great significance or importance. Most of the defects still remained. The previous systems of divided heads and of "doles" remained ; inequalities in provincial expenditure were not removed ; independent powers of taxation and borrowing were not granted. Yet the Resolution of 1912 declared the financial settlements with the provinces "to be fixed in perpetuity".

III

The third and perhaps the most important group of recommendations of the Indian Decentralization Commission related to the extension of local self government in India. After the Resolution of 1882 Municipal and Self-Government Acts were passed in the provinces to reorganise and extend the system of local self-government on the lines laid down in the Resolution. But the progress that was achieved during the next 25 years was disappointing both in the case of municipal and rural boards. There were three chief reasons for this disappointing progress—"the smallness and inelasticity of local revenues,"[1] the slow development "of interest in local affairs and capacity to handle them"[2] and the officialisation and excessive control exercised by the Government over the local bodies.[3]

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1. The chief sources of income for municipalities of India, with the yield in 1911-12, were : —Taxes on houses and land £1,056,030 ; Octroi £925, 101 : Water rate £526,127 ; other rates, tolls and taxes £859,192 : Government grants £599, 852. The main items of expenditure in 1911-12 were Roads £489, 193 ; Hospitals etc., £269, 301 ; Education £238,467 and Lighting £235,467.

The sources of income in case of rural boards were much narrower and more inelastic. "The greatest part of their revenue is derived from a cess..... .....on land.....which usually does not exceed one anna in the rupee on the annual rental value" of the land. Government has been supplementing this income "at the rate of 25% of that income." Government also was making special grant for particular purposes. "The only other important sources of independent revenue are pounds and ferries and in Madras tolls." The total amount spent by the rural boards in 1911-12 was £3,302 670, for over 200 million people—See Material and Moral Progress Report 1911-12, pp. 117-19.

2. Report on Indian Constitutional Reforms, 1918, p. 6.

3. In the first instance Chairmen in most of the municipalities were still officials. Out of a total of 695 Chairmen in 1915 only 222 were elected non-officials, 51 nominated non-officials and the remaining 422 were officials. In the case of the District Boards in almost all provinces the Chairmen were Collectors of the districts.

Secondly, elaborate provisions were laid down for official control, particularly in matters of finance and appointments, and generally speaking municipal budgets and alterations in taxation required the sanction of the Commissioner or the Provincial Governments. The Provincial Government had the power of removing the Chairman and the Vice-Chairman and to suspend or to supersede any delinquent Board or Committee. The Commissioner or the District Magistrate had the power of vetoing any resolution likely to lead to breach of the peace. "The Collector of the district was given extensive supervising powers, having the right to inspect all the activities of the Council and call for such reports as he wished."

The provisions for official control over the rural boards were still more

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The Indian Decentralisation Commission made a number of proposals to remove partially, if not wholly, these defects. Unfortunately the Government of India took so long in considering them and making up its mind that when in 1915 it issued its Resolution on the subject the policy and proposals enunciated therein had already become out of date. Shortly after, the question of political reforms was taken up ; and, it was agreed, that as a first step as great an advance as possible should be made in the sphere of local self-government. The Government of India, therefore, revised its proposals of 1915 and the revised proposals were embodied in a new Resolution dated the 14th May, 1918.

The aim which the Government put before itself was "that local bodies should be as representative as possible.....that their authority should be real and not nominal and that they should not be subjected to unnecessary control but should learn by making mistakes..."[1] Towards this end the Resolution of 1918 made the following proposals :—

First, that both the municipal and rural boards should have substantial elected majorities. Ordinarily $\frac{3}{4}$ths of the members should be elected ; special representation of minorities should be effected through "nominations rather than by introducing .....communal or proportional representation"[2] ; and that the franchise qulifications should be lowered considerably. A few officials were to be nominated purely for giving expert advice without any right of voting.

Secondly, the Chairmen of the municipalities should be elected by the Boards and should ordinarily be non-official gentlemen—in case a Board wanted to select an official there must be a clear non-official majority in his favour. In the case of larger cities there should be in addition an Executive Officer, appointed by Board, but approved by the Government. In the case of District Boards, the Resolution urged upon the Provincial Governments the desirability of arranging for the election of Chairmen wherever possible or in the alternative to encourage the appointment of non-official Chairmen—but in the latter case there must in addition be appointed special Executive Officers. If any district board wanted to save the expense of a special Executive Officer it may elect an official Chairman by non-official majority.

Thirdly, the Resolution gave to the Boards slightly extended

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stringent and elaborate but on the same lines as those described in the case of the municipalities.

The Decentralisation Commission, although it did not go so far as non-official critics, believed that excessive control was exercised by officials over the local boards both from within and without.

1. Para 4 of the Resolution, Mukherjee : Indian Constitutional Documents, Vol. I, p. 699.

2. Para 5 of the Resolution, *Ibid.*, p. 700.

powers of taxation—that is of varying taxes or the cess within limits laid down by law. However, in the case of indebted municipalities the sanction of Local Government was required.

Fourthly, the Resolution of 1918 accepted the proposal of the Decentralisation Commission "that, if a municipal or rural board had to pay for a service, it should control it ; and, that, where it was expedient that the control should be largely in the hands of the Government, the service should be a provincial one."[1]

Fifthly, as recommended by the Commission, the Resolution of 1918 gave the Boards a free hand in regard to their budgets. "The only check required should..... be the maintenance of a minimum standing balance to be provided by the local Governments. Further checks would be pointed by the control which Local Governments would exercise over loans and by the powers which should be reserved to compel a municipality to discharge its duties in cases of default."[2] There was further relaxation of control with regard to the earmarking of local revenues for special purposes, the making of special grants, the expenditure on public works and control over local establishments. But general powers of supervision and control vested in Collectors and Commissioners by the existing laws were kept in tact. The Resolution further recommended the setting up of Departments of Local Self-Government in the Provinces.

Lastly, the Resolution of 1918 favoured the establishment of Village Panchayats on the lines suggested by the Decentralisation Commission.....mainly with a view to develop corporate life in the villages. The Panchayats were to be organised under the special guidance of district officers and were to perform both administrative and judicial functions. They were to be informally elected and were to have the right of electing their Chairmen, who need not be village headmen. They may receive part of the land cess to meet their expenses and may in addition be empowered to levy special taxes for particular purposes. They were to look after the village sanitation and village education and to decide petty civil and criminal cases under safeguards provided for the purpose.

Legislation on the above lines were passed in the provinces after the Reforms of 1919. Local-Self Government Acts were passed by the reformed Provincial Legislatures within three years of their coming into existence.

IV

Among the administrative changes made in the period, 1909-1919, the most notable were those announced by the King-Emperor himself at the Imperial Durbar held in Delhi on December 12, 1911.

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1. Para 12 of the Resolution, Mukherjee Indian Constitutional Documents, Vol. I, p. 707.
2. Para 13, *Ibid.*, p. 707-8.

The idea of announcing the coronation by the Sovereign himself at a Durbar in India was first mooted by Lord Curzon in 1901. In 1910,[1] however, it appears from a speech made by Lord Morley in the House of Lords, that "the idea was His Majesty's own, to which he adhered in spite of the advice given him by many well-qualified to advise."[2]

The object of the Royal visit and the Delhi Durbar of 1911 was to strengthen materially the Imperial bonds. It was felt by British statesmen that the happenings of the last few years had alienated the sympathies of many Indians, that Imperial sentiment and loyalty were at a low ebb, and that a significant gesture of goodwill was necessary to revive Imperial patriotism and to restore the faith in the good intentions of the British. And it was felt that nothing else could achieve this purpose better than the visit of the new King and Queen, the recrowning of them in the old Imperial city of the Mughals and the ancient Hindus as Emperor and Empress of India, the announcing of boons and the redressing of grievances by the Emperor himself at the Durbar, as of old ; and the receiving of the homage of the people and the Princes of India in their own person. Consequently, it was decided to hold the Imperial Durbar at Delhi on December 12, 1911, on a still grander scale than 1903, and to utilise the occasion to make certain announcements to win back the loyalty and goodwill of the people of India.

Among the announcements made at the Durbar, the most important was the third and the last, made by the King-Emperor himself, in memorable words, *viz.*, "the transfer of the seat of the Government of India from Calcutta to the ancient capital of Delhi, and simultaneously and as a consequence of that transfer, the creation at as early a date as possible of a Governorship of the Presidency of Bengal, of a new Lieutenant-Governorship in Council administering the areas of Bihar, Chota-Nagpur and Orissa, and a Chief Commissionership of Assam, with the necessary administrative changes and redistribution of boundaries."[3]

The changes thus announced were certainly of a controversial nature and if they had been disclosed earlier they would have aroused a heated and a bitter controversy. Even after personal announcement by the King-Emperor had invested them with a certain amount of sacrosanctity, they were attacked vehemently both in England and in India.

The despatch of the Government of India, dated the 25th August, 1911, which initiated these changes, gives the impression that the proposals were made in the interests of provincial autonomy.

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1. In May 1910, King Edward VII passed away from this world after a brief illness. In November 1910 Lord Hardinge succeeded Lord Minto as the Viceroy of India.

2. Speech of Lord Morley, published as an Appendix to speeches of Lord Hardinge, Vol. I, p. 445. Ganesh & Co., Madras.

3. Mukherjee : Indian Constitutional Documents, Vol. I, p. xliv.

Says the Despatch : "The only possible solution of the difficulty would appear to be gradually to give the provinces a large measure of self-government, until at last India would consist of a number of administrations, autonomous in all provincial affairs, with the Government of India above them all, possessing power of interference in cases of mis-government, but ordinarily restricting their functions to matters of Imperial concern. In order that this consummation may be attained, it is essential that the Supreme Government should not be associated with any particular Provincial Government."[1] But both the Secretary of State and the Indian Finance Member challenged the obvious interpretation put by Indians on the sentences quoted above from the Despatch. Lord Crewe could not imagine of any time when India could expect self-government on colonial lines. "I see no future for India on these lines."[2] And, Sir William Meyer, Lord Hardinge's Finance Minister, told Mr. Surendranath Bannerjee when he pressed for financial autonomy for the provinces in fulfilment of the policy outlined in the Despatch of 1911, that he was "an impatient idealist".[3]

These statements and the halting and the belated acceptance of even the very modest proposals of the Indian Decentralization Commission by Lord Hardinge's Government leads one to the conclusion that "provincial autonomy" was not a very important motive, at any rate in the minds of the Secretary of State and the members of the Viceroy's Executive Council.[3]

Another explantion which appears more likely is that the Liberal Party in England had from the beginning disliked the Partition of Bengal and the real views of Lord Morley were those he expressed shortly before taking office. Even in his speech of February 26, 1906, when the Secretary of State announced that "the redistribution of Bengal is now a settled fact," Mr. Morley, as he then was, openly acknowledged that the Partition "was and remains undoubtedly an administrative operation which went wholly and decisively against the wishes of most of the people concerned."[4] And in February 1912, in his speech in the House of Lords Lord Morley confessed that "friends of my own were very angry with me for many months for not taking immediate steps for reversing that policy."[5] But Mr. Morley then considered that an immediate reversal was inadvisable. It might have led to difficulties with the Indian Civil Service over the question of reforms and it might have given the impression that the Liberal Government was going to change the whole Indian policy of the previous Government. "There

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1. Para 3 of the Despatch, *Ibid.*, p. 454.

2. Lovett : History of Indian Nationalism, p. 89 extract from the speech of 24th June, 1912, in the House of Lord Crewe.

3. Bannerjee : A Nation in Making, p. 300.

4. It may, however, be different with Lord Hardinge, who had told Mr, Bannerjee in private conversation : "You will have provincial autonomy in ten years' time." Bannerjee : A Nation in Making, p. 505.

5. Speeches of John Morley, pp. 107-8.

was another reason," said Lord Morley—"namely, that it would be wrong .....and rash for us atonce to reverse an operation the effects of which we had no opportunity of forming a judgment upon."[1] Besides it would have looked like "a concession to clamour, if we had reversed partition in December 1906."[2]

It would thus appear that the Liberal Government had been seriously thinking of reversing the Partition from the time it came into office in 1906 and it was only waiting for a suitable opportunity to undo—what it considered—a wrong. It felt that the time was most propitious in 1911—a new Viceroy had just gone to India, the Reforms had already been put into operation, the partition agitation had almost died down, and Their Majesties were shortly going to India on a mission of reconciliation. The reunion of Bengal at such a time would appear an act of grace rather than of concession and would fit in with the general policy of reconciliation. And to make the step less objectionable to the Mohammedans the Government decided at the same time to transfer the seat of the Government to Delhi, the capital of the Mughals. A change of capital was desirable from other points of view as well[3] and the opportunity to do so was exceptionally good at the time.

It appears to me that the policy of holding the Durbar and of reconciling the people of India, especially of Bengal, had been worked out in England before the departure of Lord Hardinge for India and that he was a party to the decisions reached there. On his arrival at Calcutta the Bengal leaders decided to hold an anti-partition meeting to acquaint him with the feelings of the people on the subject. Lord Hardinge at once sent for Mr. Surendra Nath Bannerjee and persuaded him not to hold the meeting or to agitate in the public but to submit a memorial to which he would give his best consideration. The public meeting was abandoned, a memorial was quietly got up, "signed by representative men in eighteen out of the twenty-five districts of Bengal"[4] and submitted to the Viceroy about the end of June, 1911. Writes Mr. Bannerjee, "The Dispatch of the Government of India recommending the modification of the Partition of Bengal was dated August 25, 1911; and some of the arguments that were urged in the memorial were accepted by the Government as valid reasons for the modification of

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1. Lord Hardinge's Speeches, Vol. I, Appendix, p. 505.

2. *Ibid.*, p. 504.

3. As pointed out by Sir Harcourt Butler "the centre of political gravity had long shifted from Calcutta, geographically remote from the Indian States, the fighting races and the all-important North-Western Frontier." But there were two other important reasons, and they are thus summarised by Sir Harcourt: "The outbreak of the revolutionary movement in Bengal in 1907 brought matters to a head. Indian legislators from other provinces became infected by Benglee ideas, and the local government was overshadowed and reduced to impotence by the presence in Calcutta.....of the Government of India....." pp. 70-71. India Insistent by Sir Harcourt Butler, London, 1931.

4. Bannerjee : A Nation in Making, p. 85.

the partition, and were emphasised in the Dispatch."[1]

The transfer of the capital and the remodelling of the Partition were both opposed in England as well as in India and the manner in which they were carried out was specially attacked. Lord Curzon described the method as unconstitutional and unworthy of a strong and a liberal Government. Lord Minto considered it wrong to make such important decisions without consulting the provincial heads in India and the Anglo-Indian authorities in England. The remodelling of the partition was opposed as a concession to an insincere and artificial agitation conducted by selfish, professional men as a terrible wrong inflicted on the loyal Mohammedans of Eastern Bengal. The transfer of the capital was opposed as being against the interest of Europeans in India and strategically unwise as the British Power was really based upon its supremacy on the sea. Delhi's past was a very ominous one—it was the graveyard of many empires. "I venture to say", said Lord Curzon, "that the less you say about the history of Delhi, the better."[2]

Such were the grounds on which the policy of the 1911 Dispatch was challenged. They were effectively met by Lords Crewe and Morley in the House of Lords and the opposition slowly died away. There is, however, one point on which Lord Curzon has proved more in the right than the Government of Lord Hardinge—and, that is, in regard to the time and money it would take to build the new Imperial Capital at Delhi. The Government of India had estimated the cost roughly at £4,000,000 while Lord Curzon had thought that it may go up to £12,000,000. It is indeed a terrible price for a poor country like India to pay for shifting the capital to a central and neutral position.[3]

V

The administrative changes made at the Imperial Durbar of 1911 were effected largely by means of executive orders and proclamations under powers conferred upon the Government by previous statutes, though supplementary legislation was also found necessary.

In the first instance, a declaration was made by the Secretary of State under Section 16 of the Act of 1853 that the Governor-General should no longer be the Governor of the Presidency of Fort William in Bengal and that a separate Governor for that

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1. For a study of this mentality read "1957", a novel by Hamish Blair.
2. Lord Hardinge's Speeches, Vol. I, Appendix, p. 465.
3. Lord Hardinge compares the cost with that of the Australian capital at Canberra, which was £13,000,000 and with the estimated cost of the new building of the Bank of England and the London County Council. He says that the total cost on the Viceroy's House and the Secretariat buildings together is "a trifle more than half the estimated cost of the New Bank of England in London, or half that of the incompleted offices of the London County Council."

Presidency be appointed.[1] By a Proclamation of March 22, 1912, the territories of the Presidency were redrawn. The five Bengali-speaking Divisions, that were separated in 1905, were reunited with the other Bengali-speaking Divisions of the old province and a new Presidency of Bengal was constituted.

By a second Proclamation of March 22, 1912, the new Province of Bihar and Orissa, with a Lieutenant-Governor and both Executive and Legislative Councils, was created.

By a third Proclamation of the same date the Chief Commissionership of Assam was reconstituted

The Government of India Act, 1912, was passed by the British Parliament to make the necessary supplementary provisions.

Firstly, the Act conferred upon the Governor of Bengal and his Councils the same powers as were enjoyed by the Governors and their Councils—Executive and Legislative—in Madras and Bombay.

Secondly, the Act created an Executive Council for Bihar and Orissa to avoid the use of the dilatory method prescribed by the Indian Councils Act, 1909.

Lastly, the Act of 1912 authorised the creation of Legislative Councils in Chief Commissioners' Provinces. Two Legislative Councils, one for Assam (in November 1912) and the other for the Central Provinces (in November 1913) were created under Section 3 of the Act of 1912.

A small province of Delhi—an *enclave* round the new Imperial City—was created by a Proclamation in 1912 and was placed under a Chief Commissioner, under the immediate authority of the Governor-General-in-Council.

The administrative changes made in 1912 showed to the Government the necessity of codifying the laws relating to the constitution of the Government of India. A large number of Acts, though obsolete, were still unrepealed ; and the powers of the Government of India were scattered about in so many statutes that it was very difficult to know what they were, without wasting considerable time and energy. A Consolidating Act was, therefore, passed by the Parliament, in July 1915.

The Government of India Act, 1915, was a purely consolidating Act and contained no amending clauses. "It repealed, with a few omissions, the unrepealed provisions of 47 Acts, beginning with an Act of 1770, and consolidated them in a single Act of 135 sections with 5 schedules."[2]

The Joint Select Committee on the Bill, which became the Act of 1915, had struck off certain proposals, which, in its opinion,

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1. On March 21st, 1912, Lord Carmichael was appointed the first Governor of Bengal.

2. Ilbert : Government of India : A Historical Survey, pp. 121-2.

went beyond the scope of consolidation. They were introduced in the form of a new Amending Bill, which was passed in 1916.

The Government of India (Amendment) Act, 1916, made certain minor changes. It enabled selected subjects of the Indian States to compete for the Indian Civil Service Examination ; it made rulers and subjects of Indian States and of territories like Nepal eligible for appointments to civil posts and military Commissions ; and it made it possible for the rulers and subjects of the States to be nominated to the Legislative Councils.

VI

During the period under review one more Statute was passed by the British Parliament relating to the constitution of the government in India to which it is necessary to make a reference here. This was the Indian High Courts Act, 1911.

The constitution of the High Courts, their jurisdiction and their number,[1] etc., were regulated by the Indian High Courts Acts of 1861 and 1865.

The Indian High Courts Act, 1911, raised the maximum number of Judges, including the Chief Justice of an Indian High Court, from sixteen to twenty.

Secondly, the Act empowered His Majesty by Letters Patent to create new High Courts from time to time, as found necessary ; and to make the consequential changes in the jurisdictions of the Courts.

And, lastly, the Act gave power to the Governor-General-in-Council to appoint temporary additional judges of any High Court for a term not exceeding two years.

In exercise of the powers given by this Act a new High Court was established in 1915 at Patna and another at Lahore in 1919.

VII

In spite of the Reforms of 1909 the position of Indians in the higher ranks of the public services did not improve. There was grave discontent among the educated classes which was voiced in the Imperial Legislative Council on March 17th, 1911, when the Hon'ble Mr. Suba Rao moved a resolution recommending the appointment of a Royal Commission "to consider claims of Indians to higher and more extensive employment in the Public Service connected with the civil administration of the country."[2]

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1. In 1911 there were only four High Courts in India—at Calcutta, Bombay, Madras and Allahabad. The power given by the Act of 1865 to create more High Courts was said to have been exhausted by the establishment of the Allahabad High Court ; hence a new provision for the purpose in the Act of 1911.

2. Indian Legislative Council Proceedings, Vol. XLIX, p. 492.

The Government took action and ultimately a Royal Commission was appointed on August 21st, 1912, with Lord Islington as Chairman and eleven other members, including three Indians, Messrs. Gokhale, Abdur Rahim and Chaubal.[1] The terms of reference were comprehensive as the Commission was asked to examine and report in respect to both the Imperial and Provincial Services on : "(1) The methods of recruitment and the system of training and probation ; (2) the conditions of service, salary, leave and pension, (3) such limitations as still exist in the employment of non-Europeans and the working of the existing system of division of services into Imperial and Provincial ; and generally to consider the requirements of the Public Service and to recommend such changes as may seem expedient "[2]

The Commission submitted its report in August 1915. Mr. Abdur Rahim submitted a separate report—technically called a Minute—which had Mr. Gokhale's "entire approval and were virtually formulated in consultation with him."[3] Mr. Gokhale could not sign it as he had died on February 19, 1915.

The Report was withheld from publication "in the hope of avoiding controversy" during the War, but was at last published in January 1917, as the end of the War was not in sight. "By that time," says the Montford Report, "the War had raised the pitch of Indian expectations to an extreme height and [the]..... report.....was generally denounced.....as wholly inadequate" and "the effect of the report was to irritate rather than to satisfy Indian opinion."[4]

The most important question before the Commission was to remove the practical difficulties existing in connection with the appointment of Indians to higher posts in the public service. Except in a very few departments imperial branches of all civil services were recruited ordinarily from Europe. Even in those departments which were normally recruited in India preference for the higher posts was given to Europeans, Anglo-Indians and Christians. The proportion of Indians holding posts with a salary of Rs. 500 and more was 19%. It was 10% in the case of posts carrying a salary of Rs. 800 and more.[5] And as the salary rose higher and higher the number of Indians occupying posts became less and less until such posts were reached to which no Indian had ever been appointed.

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1. The personnel of the Commission was severely criticised in India—by the Anglo-Indians because the Services were poorly represented and on account of the inclusion of Mr. Ramsay Macdonald, a scathing critic of the Indian bureaucracy ; by the Indians because of small Indian representation and the inclusion of Sir Valentine Chirol. Only the Mohammedans were pleased because besides Sir Abdur Rahim it included Sir Valentine Chirol, Sir Theodore Morrison and Lord Ronaldshay "warm supporters" of the Muslim cause.
2. Islington Commission Report, 1912-15-17, p. 2.
3. *Ibid.*. p. 394.
4. Report on Indian Constitutional Reforms, 1918, p. 5.
5. These figures are for the year 1913 and are taken from the tables given in the Islington Commission Report, pp. 24-6.

The remedy proposed by Indians was the holding of simultaneous competitive examinations both in England and in India. This was rejected by the Commission as their opinion was that "whilst competitive examinations should ordinarily be continued where they are now held, the time is not yet ripe for the general adoption of any such system," mainly because educational facilities were neither sufficiently nor uniformly developed in all provinces and communities in India and because "Indian schools and colleges did not give the same guarantee of the moulding and development of character as is afforded by the English schools and colleges."[1] The Commission did not consider that a system of state scholarships would meet the needs of the case, nor did it approve the principle of fixing a certain percentage of higher posts for Indians. It is true that the proper method of looking at the question was not as to how many Indians should be employed in each service, but, as pointed out by Mr. Abdur Rahim, "that importation of officials from Europe should be limited to cases of clear necessity",[4] but this was not the stand-point from which the Commission looked at the question. They rejected the proposal to fix percentages "because of the general undesirability of proportions based on race" and "because we recognise the tendency of a minimum to become a maximum."[3] And yet their own proposals were based largely on racial considerations. They proposed (1) to add a few more services to those which were recruited normally in India; and (2) they divided the remaining services into three groups:—(*a*) Services like the I. C. S. and the I. P. S. (Police) in which "preponderating proportion of the officers should be recruited in Europe."[4] In the case of the I. C. S. 75% of the posts were to be recruited by competitive examination in England with the maximum age lowered from 24 to 19 years to make it impossible for Indians to enter by that door—the remaining 25% were to be filled in India through nomination from amongst candidates with certain minimum qualifications. In the case of the Police Service, only 10% of the candidates were to be recruited in India to be increased gradually to 20%, "as occasion offers". (*b*) In the second group were placed "services like education, medical, public works and so on, in which.....an admixture of both Western and Eastern elements" was considered desirable. (*c*) In the third group were placed "certain scientific and technical services, such as the agricultural and civil veterinary departments, etc., which were to be recruited eventually in India, when technical educational institutions are opened in India, but, in the meantime, were to be recruited from abroad.

These proposals were not only inadequate but were based upon the assumption of racial superiority of the British and upon

1. Islington Commission Report, p. 30.
2. *Ibid.*, p. 411.
3. *Ibid.*, p. 26.
4. *Ibid.*, p. 61.

the necessity of maintaining in certain services atleast a preponderating proportion of the British element. No wonder they were universally condemned in India as soon as they were published.

The Commission also recommended a considerable improvement in the emoluments of the members of the various public services amounting in all to over 88 lakhs of rupees, according to Mr. M. B. Chaubal. As the two Indian members of the Commission conclusively proved by giving comparative scales of salaries there was no case for any increase in the salaries, allowances, pensions, etc., of the members of the services in India, as they were already higher than in England or in the Colonial Service in Ceylon or Hong Kong.

It is not necessary to deal with the other recommendations of the Commission because they were of a more technical nature. As stated already the Report of the Commission was universally condemned in India as both inadequate and unsatisfactory. Even the Report on Indian Constitutional Reforms felt it necessary to write : "The Report must form the basis of the action now to be taken, but in view of the altered circumstances we think that it will be necessary to amplify its conclusions in some important respects."[1]

VIII

An event of considerable constitutional importance that took place during the period of 1909-19 was the admittance of India to the Imperial Conference, the Imperial War Cabinet and the British Empire Delegation to the Peace Conference on terms of formal equality with the self-governing members of the Empire.

The institution of the Imperial Conference had come into existence in 1887 under the name of Colonial Conference in connection with the Jubilee celebration of Queen Victoria. In 1907 its name was changed to Imperial Conference and according to its new constitution it was to be "a periodical meeting for the discussion of matters of common interest between His Majestey's Government and His Governments of the Self-Governing Dominions beyond the seas."[2]

The first Imperial Conference was held in 1911 and the next was due to be held in 1915, but was postponed indefinitely owing to the outbreak of the Great War. However, in December 1916, it was felt necessary in England to call an Imperial Conference early in 1927 and also to invite Empire representatives to join the War Cabinet.

In September 1915 a resolution was moved in the Indian Legislative Council recommending "that a representation be sent .....to His Majesty's Government that India should be officially

1. The Report on Indian Constitutional Reforms, 1918, p. 149.
2. Mukherjee : Indian Constitutional Documents, Vol. I, p. 606.

represented on the Imperial Conference"[1] In spite of the fact that India was not self-governing the Viceroy did not foresee any difficulty as "India's size, population, wealth, military resources and, lastly, her patriotism demanded it."[2] And in 1917 the Secretary of State was invited to represent India on both the Imperial War Cabinet and the Imperial War Conference. However, three persons were appointed from India—H. H. the Maharaja of Bikaner, the Hon'ble Sir James Meston and Sir Satyendra Sinha—to assist the Secretary of State.

The Imperial War Conference was held in April 1917 and among the other resolutions passed were—(1) that the constitution of the Imperial Conference should be modified to admit India to all future Conferences ; and (2) that soon after the hostilities are over a special Conference should be called to re-adjust constitutional relations—recognising "the rights of the Dominions and India to an adequate voice in foreign policy and in foreign relations" and providing "effective arrangements for continuous consultations ...and for necessary concerted action"[3] A resolution accepting the principle of reciprocity of treatment and recommending the memorandum submitted by India on the position of Indians in the Self-Governing Dominions to the favourable consideration of the Governments concerned was also passed.

Besides the meetings of the Imperial War Conference were held sittings of the Imperial War Cabinet. On May 18, 1917, the British Prime Minister announced in the House of Commons that it was decided to hold meetings of the Imperial War Cabinet annually or whenever "matters of urgent imperial concern" made it necessary and "that the Imperial Cabinet should consist of the Prime Minister of the United Kingdom and such of his colleagues as deal specially with imperial affairs, of the Prime Minister of each of the Dominions, or some specially accredited alternate possessed of equal authority, and of a representative of the Indian people appointed by the Government of India."[4]

In 1918 the Government of India appointed Sir Satyendra Sinha (later Lord Sinha and then Under Secretary of State for India) to represent India on the Imperial War Cabinet and also on the Imperial War Conference—on the latter, along with H. H. the Maharaja of Patiala [5]

The Imperial War Conference met for the second time in July 1918, and among other things, agreed to give effect to the principle of reciprocity laid down in 1917. A resolution was passed enuncia-

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1. Mukherjee : Indian Constitutional Documents, Vol. I, p. 606.
2. *Ibid.*, Vol. I, p. 611.
3. Keith : Speeches on Indian Policy, Vol. II, p. 133.
4. Mukherjee : Indian Consitutional Documents, Vol. II, p. 617.
5. A resolution was moved in the Imperial Legislative Council asking that the Indian representatives should be appointed on the recommendation of the elected members of the Council, but this was not accepted by the Government of India.

ting the doctrine that each Government "should enjoy complete control of the composition of its own population by means of restrictions on immigration;"[1] but that British citizens from one country, "should be admitted into any other British country for visits, for the purpose of pleasure or commerce, including temporary residence for the purpose of education".[2] It was, however, clearly stated that "such right shall not extend to a visit or temporary residence for labour purposes or to permanent settlement."[3] The Resolution permitted Indians already permanently domiciled in the Dominions "to bring in their wives and minor children on condition" that only one wife and her children, certified to be legally so by the Indian Government, were brought.

Shortly after the Imperial War Conference was over, came the armistice and the problem of negotiating the peace. For this purpose a Peace Conference was held at Versailles on which the British Empire was represented, not by great Britain alone, as it used to be on similar occasions before, but by a delegation representing Britain, all the dominions separately, and India. The Peace Treaty was signed by the representatives of the Dominions and India separately and on behalf of their respective countries and they also became independent members of the League of Nations, whose Covenant formed an integral part of the Treaty.

It was in this manner that India gained the status of a Dominion in external affairs. Very little importance was attached by Indians to this improvement in her position. As a matter of fact, most of the advanced nationalists regarded Indian membership of the League of Nations as more of a burden than a privilege. They looked upon the League with a suspicion as a combination of exploiting and imperialistic nations—and they regarded Indian representation as more useful to Britain than to India, so long as Indian representation was official and under British control. There was no doubt, an element of truth in these contentions that India could only derive real benefit of her membership of the League and the Imperial bodies when she became self-governing. But there is also force in the other view that the first steps, though they may not bring immediate and tangible benefits, are of great importance.

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1 Keith : Speeches on Indian Policy, Vol. II, p. 135.
2 *Ibid.*, p. 136.
3. *Ibid.*, Vol. II, p. 135.
4. *Ibid.*, p. 136.

18

REVOLUTION AND REPRESSION

I

Lord Morley wanted to launch his scheme of Reforms in India in an atmosphere of goodwill and friendliness. He, therefore, urged upon the Viceroy the necessity of signalising the reforms by some notable act of clemency such as the release of the Bengal deportees But the Viceroy considered it unwise "to turn loose those firebrands into the political arena at the very time when we are hoping that the reasonable and stable characters in Indian society will come forward and range themselves on our side..... ."[1] The strongly worded protest from the Government of India silenced the Secretary of State for the time being and the Reforms instead of being inaugurated with an act of clemency were ushered in on the morrow of an anarchical crime. On the 25th January, 1919, the newly elected Imperial Legislative Council was formally declared open by Lord Minto, but on the previous evening was shot dead the Deputy Superintendent of Police, Shamsul Alam, while leaving the Calcutta High Court after the hearing of the appeal in the Alipur Conspiracy Case.[2] And the first important act of the reformed Imperial Legislative Council was to pass a stringent press law.

II

During the last four years there was a quick succession of attempts at anarchical crime. This, as the Viceroy wrote to Lord Morley, had unnerved the European population at Calcutta. It was felt that some strong action was necessary to restore confidence. The Commander-in-Chief proposed the proclamation of Martial Law—the very mention of which, wrote Lord morley "makes my flesh creep."[3] The proposal was vetoed by the Viceroy but it was decided to pass a stringent press law at once. This was done on February 9th, 1910, on which date Lord Minto also issued orders for the release of Bengal deportees.

The previous history of the press legislation has been described in earlier chapters. In 1881 the press was again made free

1. Buchan : Lord Minto, p. 392.
2. See p. 145 *supra*.
3. Morley : Recollections, Vol. II, p. 328.

in India which enabled it to expand considerably. By 1901-02 the number of newspapers had risen to 708 and the figure reached 753 in 1907-08.[1] In 1908 was passed the Newspapers (Incitement to Offences) Act[2] to prevent the dissemination of revolutionary teachings through the Press. As a result of action taken under this Act such extremist organs as the *Yugantar*, the *Sandhya* and the *Bandemalram* ceased to exist. The Government possessed wide powers of prosecuting newspapers for sedition under Sections 124A and 153A of the Indian Penal Code. Security could be demanded from publishers under Section 108 of the Code and there was the Newspapers (Incitement to Offences) Act, 1908, to suppress papers preaching violent action. But the Government of India felt that these powers were not deterrent enough to stop the dissemination of seditious literature through the Press and they pushed through the Imperial Legislative Council, by suspending ordinary rules of procedure—in spite of the protest of non-official members like Pandit Malaviya and Mr. Bhupendra Nath Basu—a stringent press law, which became the Indian Press Act, 1910.

The Act of 1910 revived some of the worst features of the Indian Vernacular Press Act, 1878. There were, however, two important differences: The Act of 1910 applied to the whole Press, Vernacular and English, Anglo-Indian[3] and Indian; and there was a provision in it for an appeal to High Court.

The Indian Press Act, 1910, empowered a Magistrate to require a deposit of not less than five hundred and not more than two thousand rupees from keepers of news printing presses[4] and also from publishers of newspapers[5] when they made declarations before him under Section 4 of the Press and Registration of Books Act, 1867. The Act further empowered the Local Governments to require existing presses and the publishers of newspapers registered before the coming into force of the Press Act, 1910, to deposit not less than five hundred and not more than five thousand rupees if matter coming within Section 4(1) of the Act was printed or published therein. The Magistrate was also given the power to dispense with the deposit of any security from a press or newspaper or to cancel or vary any order already issued in this connection if he had any special reasons—"to be recorded by him"—for doing so.

Section 4 (1) of the Indian Press Act, 1910, defined in six

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1. Moral and Material Progress Report, 1911-12, p. 362.
2. See Section IV of Chapter XIX, *Supra*.
3. The inclusion of the Anglo-Indian Press did not mean much in practice. Anglo-Indian Press could not preach sedition in any case; and it was the general complaint of Indians, voiced by Mr. Gokhale and many other important witnesses, that in spite of its preaching race hatred the Government took no action against it. See pp. 127-29, above; and also paragraph 7 of the Report of the Press Laws Committee, 1921.
4. Section 3 (1) of the Act, Ghosh: Press and Press Laws in India, p. 66.
5. Section 8 (1) one of the Act, *Ibid.*, p. 69.

comprehensive clauses[1] matter which was considered objectionable and the publication of which would entitle a Local Government to declare the security deposited to be forfeited to His Majesty. Offences under the Explosive Substances Act, 1908[2] and the Newspapers (Incitement to Offences) Act, 1908[3], were again included under the Act of 1910. The definition of seditious publications was widened to include writings against the Indian princes, judges, executive officers and public servants. All attempts, direct or indirect.....to seduce persons employed in His Majesty's defence forces or to intimidate people to give money for revolutionary work or to prevent them giving help in discovering and punishing revolutionary crime were included in the definition of objectionable matter under this Section 4 (1). Indeed this Section was so worded as to leave little scope for independent criticism of Government action to the Press. But what was still worse was that the power of deciding whether any particular publication did or did not offend against Section 4 (1) was given to the Local Government and not to the ordinary courts.

If under Section 4 (1) the Local Government has confiscated the security of any printing press or of any newspaper and the keeper of press[4] and the publisher of the newspaper[5] make a fresh declaration under Section 4 of the Press and Registration of Books Act, 1867, each of them shall be required to deposit with the Magistrate security of not less than one thousand and not more than ten thousand rupees. If after depositing such security the Local Government is of opinion that the printing press or the newspaper has again committed an offence under Section 4 (1) it may order the security, the printing press and all copies of the newspaper and other offending publications to be forfeited to His Majesty.[6]

The Local Governments were further given the authority[7] to require the customs officer or the officer-in-charge of any post office to detain any packet or parcel or consignment suspected to contain matter coming within the meaning of Section 4 (1) of the Act and to deliver the same to the Local Government.

Lastly, the Indian Press Act, 1910, provided for an appeal[8] to the High Court, to be tried by a Special Bench of three Judges,[9]

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1. Section 4 (1) of the Act, Ghose : The Press and Press Laws in India, pp. 67-68.
2. See p. 159, *Supra.*
3. See p. 160, *Supra.*
4. Section 5 of the Act, Ghose : The Press and Press Laws in India, p. 68.
5. Section 10 of the Act, *Ibid.*, p. 70.
6. See Sections 6 and 10 of the Act, *Ibid.*, pp. 69-71.
7. See Sections 13 and 15 of the Act, Ghose : The Press and Press Laws in India, pp. 71-72.
8. See Section 17 of the Act, *Ibid.*, p. 72.
9. Section 18 of the Act, *Ibid.*, p. 72.

to set aside the order of the Local Government, within two months of the date of the order of forfeiture, on the ground that the matter objected to did not fall within Section 4 (1) of the Act.

Such were the provisions of the Indian Press Act, 1910. The effects of the working of the Act during the period under review (1909-19) were briefly summarised by the secretary of the Indian Press Association in a cable sent by him to the British Prime Minister and the Secretary of State for India, on July 2nd, 1919. "Act since enactment penalized over 350 presses, 200 newspapers, demanded securities amounting over £40,000, proscribed over 500 publications. Owing to demand of security over 200 presses, 130 newspapers not started. Leading influential Indian English Journals, like *Amrit Bazar Patrika*, *Bombay Chronicle*, *Hindu*, *Independent*, *Tribune*, *Punjabee* leading vernacular papers like *Basumati*, *Swadeshmitram*, *Vijaya*, *Hindvasi*, *Bharatmitra*, subjected to its rigors. On the other hand, violent provocative writings in Anglo-Indian Press entirely immune."[1] The Government of India was pressed to institute an inquiry into the working of the Act but without result. Ultimately the matter came up before the reformed Legislative Assembly in 1921 when a committee was appointed to enquire into the question.

III

A few months after the passing of the Press Act, the Government brought forward a Continuing Bill to extend the life of the Prevention of Seditious Meetings Act, 1907,[2] till March 31st, 1911—till the new Governor-General came and had time to study the situation and to make his own recommendations in connection therewith. The Act of 1907 was designed to meet the extraordinary situation existing in that year in Eastern Bengal and the Punjab[3] and was of a strongly repressive nature. It has also worked stringently and even unfairly, as was pointed out by Mr. Gokhale in the Legislative Council.[4] By August 1910 the situation had improved greatly, as was admitted by the official members and the Governor-General, and had ceased to be dangerous or extraordinary. The non-official

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1. *Ibid.*, pp. 39-40 and also see pp. 92 to 99 where a complete list of the victims of the Press Act is given from the article of Mr. Advani in the "Home Rule" of June 1919. A detailed statement of the action taken under the Press Act during 1910, 11, 12 and 13 was also supplied by the Government to the Indian Legislative Council.

2. See pp. 158-159, *Supra*.

3. For description of the conditions in 1907 see pp. 142 to 146 and 150 to 153, *Supra*.

4. Mr. Gokhale gave specific instances. Three district conferences were prohibited on the plea that they would discuss provincial and Indian questions. Wordings of the Resolutions were demanded before giving permission for the holding of the meetings. Meetings to voice social grievances by the depressed classes were prohibited. See p. 30 of the Legislative Council Proceedings, Vol. XLIX.

members,[1] therefore, opposed the continuation of the measure even for a few months, pleading that it could be re-enacted later, if found necessary. But the Government was unyielding[2] and the Continuation Bill was passed in August 1910.

The Prevention of Seditious Meetings Act, 1907, again came up for discussion before the Indian Legislative Council in March 1911 and this time the Government proposed to allow the 1907 Act to expire on March 31st, but to replace it by a new measure with the same object though with less stringent provisions and on a permanent basis. Consequently, the Prevention of Seditious Meetings Act, 1911, was passed in March and placed permanently on the Statute Book.[3]

The Act of 1911 tried to remove some of the glaring defects of the 1907 Statute. In the first place, the new Act could only be applied to any particular area in a province after obtaining specific permission from the Governor-General in Council. Secondly, the provision in the old Act that any meeting of more than twenty members would be regarded as a public meeting was dropped. Thirdly, the new Act omitted the words "for any political object" from clause 4 defining the kind of meetings that were to be prohibited. Only those meetings which were likely to lead to disturbance of the peace or the public tranquillity, were to be prohibited. Fourthly, the authority to whom notice of public meetings was to be given was changed from the Superintendent of Police to the District Magistrate or any first class magistrate authorised for the purpose. Otherwise the provisions of the 1907 Act were re-enacted in the Statute of 1911.[4]

In spite of these modifications the new measure was strongly opposed by the bulk of non-official members as unnecessary, arbitrary and repressive. It armed the executive with large permanent powers of extraordinary type, which were bound to have a stifling effect on the public life of the country.

IV

The passing of these repressive measures had very little effect on the activities of the revolutionaries in India. Political murders

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1. All the leading non-official members like Messrs. Gokhale, Malaviya, Basu, Mudholkar, Sinha, Mazrul-Haque, Suba Rao strongly opposed the Continuation Bill.

2. Even such a strong supporter of the 1909 Reforms as Mr. Gokhale had become convinced of the utter futility of the non-official opposition as early as August 1910. He said in the course of his speech : "Now, my Lord, we well know that when once the Government had made up their mind to adopt a particular course nothing that the non-official members may say in the Council is practically of any avail in bringing about a change in that course," p. 29, Proceedings, Vol. XLIX.

3. The Act was later repealed on the recommendation of the Repressive Laws Committee, 1921.

4. See p. 158-59, *Supra*.

and dacoities continued especially in Eastern Bengal and Calcutta. Mention has already been made of the murder of the Deputy Superintendent of Police, Calcutta, on January 24th, 1910. In March 1910, the Howrah Conspiracy Case was instituted in which fifty persons were charged with conspiracy to wage war against the King and with committing political dacoities.[1] In July 44 men were prosecuted on a similar charge in what is known as the Dacca Conspiracy Case—fifteen of the accused were found guilty and sentenced to various terms of rigorous imprisonment, varying from 2 to 7 years.[2] Besides these there were other attempts at revolutionary crime during 1910.[3] During 1911 altogether 18 outrages were committed by the Revolutionaries including one murder in Calcutta and in Eastern Bengal.[4] On February 21st, 1911, Srish Chandra Chakravarty was shot dead in Calcutta and on the 11th December, on the eve of the Royal Proclamation, Inspector Man Mohan Ghosh was murdered at Barisal. "After that there was a temporary lull but it proved temporary" as was explained by Sir Reginald Craddock in the Legislative Council on March 5, 1913. "In May (1912) there was dacoity committed by bands of youngmen in the Backergunge district. In July two more dacoities of the same kind occurred in Backergunge and Dacca ; in September head constable Rati Lal Roy was shot in Dacca."[5] In November 1912, were discovered "a collection of revloutionary stores, arms and documents in the box of Girindra Mohan Dass"[6] son of an ex-additional magistrate of Dacca. And on December 13, 1912, there was an attempt to murder Abdur Rahman informer in the Midnapur Bomb Case.[7] But the crime that naturally attracted the greatest attention in this country and abroad and which was universally condemned as most heinous and diabolical was the attempt on the life of Lord Hardinge at the time of the State Entry into the new Capital on December 23rd, 1912 when the Viceregal elephant passed in front of the Punjab National Bank in Chandni Chowk a bomb was thrown on it by a Bengali, Basanta Kumar Ghosh, who had disguised himself as a Mohammedan lady in *Burka*[8]—if his confession to an officer of the Criminal Investigation Department is to be believed.[9] The bomb, which was brought

1. Indian Sedition Committee Report, 1918, p. 44.
2. *Ibid.*, p. 46.
3. *Ibid.*, pp. 46-47.
4. *Ibid.*, pp. 48, 49-50.
5. Proceedings of the Indian Legislative Council, Vol. LI, p. 310.
6. Indian Sedition Committee Report, 1918, p. 53.
7. *Ibid.*, p. 55.
8. *Burka* is worn over ordinary dress by *pardanashin* Mohammedan women when going out of doors which covers them from head to the feet right up to the ankles with only small holes in front of the eyes to see.
9. O'Dwyer : India as I knew it, pp. 169-70. Evidence was not sufficient to convict any one of the crime, but a conspiracy was unearthed which was held responsible for this and the Lahore (Lawrence Garden) Bomb outrage (1913). Heavy punishments were given to the accused in what came to be called the Delhi Conspiracy Case, See pp. 143-144 of the Sedition Committee Report.

from Bengal for the purpose, exploded and killed one of the Viceroy's attendants, wounded severely some others and caused injuries to His Excellency, the Viceroy.

V

Thus neither the Reforms nor the repressive legislation of 1910 and 1911 were able to stop revolutionary crime in India ; but the Government continued to believe in the efficacy of repressive laws. In March 1913, they introduced into the Indian Legislative Council, a bill to amend further the Indian Penal Code, which became the Criminal Law (Amendment) Act, 1913.

The Act of 1913 introduced in the Indian Penal Code the offence of conspiracy as an independent criminal offence. This had somehow escaped inclusion in the Indian Penal Code till then ; and, according to the Home Member, the Bill of 1913 was intended merely to supply the omission. It was further stated by him that the new measure was drawn up on the lines of the English Law, but the non-official members expected it to work more stringently in India and that for two main reasons, In England, said Mr. S.N. Bannerjee, the cases were decided by juries and the general administration of justice stood much higher than in India. And, secondly, pointed out Mr. Jinnah, the criminal procedure was different in the two countries and more favourable to the accused in England. He also pleaded that the new law should apply only to conspiracies against the State and not against private individuals. The select committee tried to safeguard the position to a certain extent by amending the Criminal Procedure Code as well.

The most important provision in the Act of 1913 was the addition of Section 120 (*a*) to the Indian Penal Code containing the definition of conspiracy. The rest of the measure was subsidiary to that definition. It ran as follows :—

"When two or more persons combine and agree to do or cause to be done (*i*) an illegal act or (*ii*) an act which is not illegal by illegal means, such agreement is designated a criminal conspiracy, provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy, unless some act besides the agreement is done affecting the object thereof by one or more parties to such agreement."[1]

The addition of this Section 120 (a) did not make any material difference to the growth of revolutionary societies in India. As a matter of fact, during the next three years the revolutionary movement made rapid strides in the country and its ramifications spread to the province of the Punjab.

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1. Proceedings of the Indian Legislative Council, Vol. LI. p. 292.

VI

The revolutionary movement reached the crest of the wave during 1913-16 both in Bengal and the Punjab. In Bengal political dacoities and murders through the use of the pistol and the bomb continued during the whole of the period under review ; and in addition there was an abortive attempt at a general rising plotted in conjunction with German agents. It is not necessary to give a detailed account either of the usual anarchical outrages of the German-Bengali plot. A brief summary will suffice here as a more detailed description is easily available in the pages of the Sedition Committee Report, 1918.

During 1913, there were sixteen outrages in all in the whole of Bengal—ten of which were dacoities, two with murder and with a loot of about Rs. 61,000[1]. On March 27th, an attempt was made to murder Mr. Gordon, I.C.S., at Sylhat with a bomb, but the bomb exploded on the way to Mr. Gordon's house, killing the person who was carrying it. In April a bomb was thrown in the Raniganj Police Station but without any damage to life or property. On September 29, Head Constable Haripada Deb was shot dead in College Square, Calcutta and the next day Inspector Bankim Chandra Chaudhuri was killed by a bomb at Mymensingh. On December 9, an unsuccessful attempt to murder Abdur Rahman was again made at Midnapore and on 30th December a bomb was thrown in a police station in the Hoogly district. During 1914, 29 outrages in all were committed, out of which 16 were dacoities with or without murder, one of these was a case of theft of 10 cases of pistols and ammunition from Rhodda & Co., a firm of gun-makers in Calcutta, containing 50 Mauser pistols and 46,000 rounds of ammunition for the same. The remaining four were successful attempts at murder—one at Chittagong, one at Dacca and two in Calcutta. The first murder at Calcutta was that of Inspector Nripendra Ghosh of the C. I. D., who was killed while alighting from a tram at the junction of three crowded streets, one of the pursuers was also shot dead. The second attempt was made on November 25 at the house of Deputy Superintendent Basanta Chatterjee by throwing two bombs. The Deputy Superintendent escaped, but a Head Constable was killed and three other persons wounded.

The year 1915 is the blackest year of the period. During this year dacoities and sensational murders were committed. Hold-ups in public streets of men carrying large sums of money by the use of pistols and motor cars on the American model were carried out and it was in this year that the German-Bengali plot was also discovered. In Calcutta alone there were ten outrages ; two of them were committed with taxi cabs in the American style. Besides Nirod Haldar, Inspector Suresh Chandar Mukerjee, sub-inspectors Girindra Bannerjee and Upen Chatterjee and one constable were murdered. The Calcutta group of revolutionaries led by Jatin Mukerjee and

1. The Report of the Sedition Committee, 1918, p. 59.

Bipin Ganguli, were also responsible for five other outrages outside Calcutta. In eastern Bengal there were 16 outrages, out of which three were well-planned murders—one was the murder of Comilla School Headmaster, Sarat Kumar Basu and the other of Dhirendra Biswas, who had turned police informer. The third murder was of a particularly revolting type. Deputy Superintendent of Police, Jatin Mohan, was sitting with his little child on his knees in his house at Mymensingh, when he was fired upon. Both he and the child were killed on the spot. For the first time revolutionary crime was committed in northern Bengal during 1915. Additional Superintendent of Police, Rai Saheb Nanda Kumar Basu of Rangpur was fired upon in his house but he escaped. His servant, who tried to pursue the assailants, was, however, mortally wounded. Besides this attempt of murder two dacoities were committed—one in the Rangpur district and the other in the Rajshahi district—with a total loot of property worth Rs. 75,000.

During 1916 six murders, including that of the Deputy Superintendent of Police, Calcutta, Basanta Chatterjee, and several dacoities, some of which were unsuccessful, were committed ; but during this year a large number of suspected revolutionaries were interned, some under Regulation III of 1818 and others under powers conferred by the Defence of India Act, 1915.[1] During 1917 there were nine outrages in all, two of which were attempts at murder of old revolutionary comrades, one on grounds of immorality, which was successful, and the other, on account of treachery, which was, however, unsuccessful. Six of the rest were attempted dacoities, one of which was a very daring one—committed at the shop of a goldsmith in the Armenian Street, Calcutta, at about 9 p. m. It resulted in heavy loss of life besides loss of jewellery—two were murdered and two wounded and one of the dacoits also was killed.

Such is the tale of anarchical crime in Bengal during this period. To make the account complete it is necessary to refer briefly to the German-Bengali plot of 1915.

VII

Indian revolutionaries abroad tried to take advantage of the outbreak of the Great War to get help from Germany to push forward their schemes of work in India. The German authorities were hoping that the revolutionaries in India would be able to create enough trouble for the British there to make them less effective as combatants in Europe and were thus ready to lend them a helping hand by offering to supply arms, ammunition and money to bring about a general rising in India. The first step towards this German-Indian co-operation was the establishment of the "Indian National Party" in Berlin which was attached to the German General Staff.

1. 56 altogether were interned under Regulation III of 1818 but out of these three were released in 1916. 238 persons were interned in Bengal under the Defence of India Act, 1915. See the Indian Year Book, 1917, p. 698.

It was organised by Mr. Pillai, President of the International Pro-India Committee, Zurich, and included among its members Har Dayal, the founder of the Ghadar Party in America, Barkatulla, Taraknath Das, K. C. Chakravarty and Heramba Lal Gupta.[1] The Indian National Party planned simultaneous general rising in Bengal and the Punjab. They established three bases for the purpose —one at Batavia for Bengal, one at Bangkok for returned immigrants from America, chiefly Sikhs coming back to the Punjab and the third at Kabul for Mohammedans in Northern India. Two young Indians were sent from America to help in the work of organising, one Satyendra Sen was to organise in Bengal and the other Pingley was to do the same in the U.P. and the Punjab. They arrived at Calcutta in November 1914 and started their work in their respective areas. Early in 1915 arrived Jitendra Nath Lahiri from Europe bringing definite promise of German help.

In Bengal the revolutionaries under the leadership of Jitendra Mukerjee and Narendra Bhattacharji resolved to cooperate with the Germans to bring about a rising in Bengal. Narendra Bhattacharji, with the pseudonym of C. Martin, was sent to Batavia to get into direct touch with the German agent, Theodore Helfferich and to mature plans. It was decided to charter the *Maverick* and *Henry S*, two ships, and to use them for landing arms and ammunition and cash in India for the purpose of a revolution. A bogus firm under the name of Harry and Sons was organised in Calcutta to receive remittances from Batavia. It was felt that the revolutionary forces were strong enough to deal with the troops in Bengal, and to prevent reinforcement from other provinces, it was decided to blow up the principal bridges on the three main railway lines connecting Bengal with the rest of India. Arrangements were made to unload the arms and ammunition at Rai Mangal in the Sundarbans in June 1915, to store them in the neighbourhood and to distribute them from there to the revolutionary associations.

The *S. S. Maverick* sailed from San Francisco without cargo but with five Indian revolutionaries dressed as Persians and employed as waiters. It was to meet a schooner *Annie Larsen* near the Island of Socorro and to stow into the oil tanks arms and ammunition brought by the schooner from New York, purchased there by a German named Tauscher. The *Annie Larsen* could not effect a meeting with the *Maverick* and eventually reached Hoquiam in Washington territory in June 1915 where her cargo was seized by the United States authorities. The *Maverick* eventually reached Java without any cargo and was later sent back by Helfferich to America.

The *Henry S* started from Manila with a cargo of arms and ammunition which were discovered by the customs authorities who made the Master unload them before sailing. The cargo was to be landed at Bangkok, part of it was to be kept for use in an attack on Burma and the rest was to be sent to Chittagong in Eastern Bengal.

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1. Indian Sedition Committee Report, 1918, p. 119.

After these attempts had failed the German Consul-General at Shanghai arranged to send two other ships with arms and ammunition to the Bay of Bengal, one to Rai Mangal, later changed to Hatia, and the other to Balasore. But these and other plans were never put into operation as, in the meantime, the Government of India had learned of the whole plot and had taken vigorous action to suppress it. The leaders in Bengal were rounded up—two of them were killed in the attack to capture them. The Shanghai Municipal Police arrested those who were in any way complicated in the plot and the American authorities prosecuted a number of Indian revolutionaries and their German co-helpers in America in two State trials, one at Chicago and the other in San Francisco.

VIII

The second storm centre during this period was the Punjab. The revolutionary movement made rapid strides and assumed more alarming proportions there than in Bengal during 1913-16.

In an earlier chapter I have described the conditions as they prevailed in the Punjab in 1907-08 ; but the movement then was not at all revolutionary, though, it appears, the foundations of the revolutionary movement were laid in the Punjab in 1908. Attempts have been made, both by the Sedition Committee[1] and Sir Michael O'Dwyer[2], to implicate Lala Lajpat Rai with the beginnings of anarchical movement in the Punjab by stating that it was in his house that Har Dayal began the work of initiating young men into anarchism. But writes Lala Lajpat Rai : "The whole of this statement is absolutely false."[3] He was prepared to swear and prove the truth of his denial. He states that Har Dayal was staying in a rented house in the city about one mile from his place of residence in the civil station, though he used to visit him with his young friends, like Mr. Chatterji. On the other hand, it appears, that Mr. Ajit Singh did become involved in the anarchical movement after his return from Mandalay.[4] He fled away to Persia in 1909 and thence, through Paris and Geneva, to Rio Janeiro in South America. According to Sir Michael O'Dwyer, Ajit Singh was in touch with the Ghadar revolutionaries in the U. S. A. during the first Great War. During the 2nd World War he was in Italy. He was allowed to return to India after August 15, 1947 but died in 1948.

However to return to the beginnings of the revolutionary movement in the Punjab. It is now well-established that its real

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1. See pp. 144-145 of the Report.
2. O'Dwyer : India as I knew it, p. 185.
3. Lajpat Rai : The Political Future of India, p. 165.
4. There is no clear evidence on the point. He waa only charged with propagating sedition and promoting disaffection against the British Government but not of participating in any revolutionary conspiracy or cr me.

founder was Har Dayal. He was a resident of Delhi and had a brilliant academic career in Delhi and Lahore. He was awarded a Foreign Scholarship by the Government and went to St. John's College, Oxford, in 1905. He gave up the scholarship in 1907 and returned to India. In 1908 he began to preach at Lahore a programme of general boycott and passive resistance to bring foreign domination to an end. He recruited two young men from Lahore, one Mr. J. N. Chatterjee, who later left for England to study for the Bar, and the other Dina Nath, who ultimately turned approver. He entrusted their training to Master Amir Chand of Delhi, who had been his own teacher earlier, but whom he had converted to anarchism in 1908, and he himself went abroad to organise the movement from without. Amir Chand continued the education of Dina Nath and of two other new recruits, Avadh Behari and Balmukund, with the help of Rash Behari of the Forest Research Institute, Dehra Dun, who also introduced his Bengali servant, Basanta Kumar Biswas, into the Society and linked the Society with the Bengal revolutionary organisation to obtain funds and implements, especially the bombs. Amir Chand and Rash Behari may thus be regarded as the joint leaders of the first revolutionary society in the Punjab.

The members of the Delhi Conspiracy, as it came to be called, were prosecuted in 1913. "The evidence produced at their trial inspires a strong suspicion that they themselves contrived the Delhi outrage [the Bomb thrown at Lord Hardinge in December 1912] and proves that they distributed other violently inflammatory leaflets received from Calcutta.....It was also established that, in pursuance of the plans of the conspirators, Basanta Kumar Biswas had placed a bomb on a road in the Lawrence Gardens at Lahore on the evening of May the 17th, 1913, with the intention of killing or injuring some Europeans. The bomb, however, killed no one but an unfortunate Indian orderly, who ran over it in the dark on his bicycle."[1]

For these offences the accused were given very heavy punishments. Amir Chand, Avadh Behari, Balmukand and Basanta Kumar Biswas were sentenced to be hanged—"two of them only because of membership in the secret conspiracy and not for actual participation in the crime"[2] and two others to seven years' rigorous imprisonment each. Rash Behari was able to escape. "He is still at large" writes Sir Michael O'Dwyer and adds in a paranthesis "I have recently heard of him in Tokyo."[3] During the Second World war he was in touch with Mr. Subhas Chandra Bose, who organised the Indian National Army and set up a Provisional Government of the Republic of India in Burma.

IX

The revolutionary movement in the Punjab was reinforced by the return of Sikh emigrants from America during the next three

1. Indian Sedition Committee Report, 1918, p. 144.
2. Lajpat Rai : Political Future of India, p. 173.
3. O'Dwyer : India as I knew it, p. 185.

years in fairly large numbers. The Sikhs had emigrated to the Far East and America to improve their economic condition. Many more were anxious to go and settle in Canada. But the Canadian authorities were putting all kinds of obstacles in their way. They were bent upon stopping all further immigration of Indians and were using all manner of means to drive away those that had already been admitted. The Sikh immigrants were not allowed to send for their wives and children. Each intending Asiatic immigrant was required to satisfy the Canadian authorities that he was in possession of 200 dollars and that he had travelled by a continuous journey on through ticket from his native country.[1] This meant an absolute immigration bar for Indians as there was no direct steamer service to Canada. In 1913 three Sikh delegates came from Canada to arouse public opinion in India[2] and to persuade the Government to take some action to redress the grievances of Indians in British Columbia. They saw both the head of the Punjab Government and the Viceroy. They held public meetings in various towns in the Punjab. But the Canadian authorities did not relax the immigration regulations. A public-spirited Sikh, who had settled in the Far East and was carrying on a prosperous business as a contractor in Singapore and Malay States, named Sardar Gurdit Singh, decided to circumvent the Canadian Regulations by chartering a Japanese steamer, *Komagata Maru*, and by taking passengers from Hong Kong, Shanghai, Moji and Yokohama direct to Vancouver. The *Komagata Maru* sailed from Hong Kong on the 4th April, 1914, and reached Vancouver on May 23rd, with 351 Sikhs and 21 Punjabi Mussulmans on board. "The local authorities refused to allow landing except in a very few cases, as the immigrants had not complied with the requirements of the law. Protests were made, and, while negotiations were proceeding, a balance of 22,000 dollars still due for the hire of the ship was paid by the Vancouver Indians, and the charter was transferred to two prominent malcontents."[3] The vessel was ordered to leave the Canadian waters but the Sikhs defied the order. The police were beaten off. Ultimately a government vessel with armed force was sent to enforce orders. The provisions were supplied for the return journey by the Canadian Government and *Komagata Maru* sailed back on July 23rd, 1914. The passengers "were by this time in a very bad temper as many had staked all their possessions on this venture... . This temper had been greatly aggravated by direct revolutionary influences. The revolutionary party too had endeavoured to smuggle arms on board at Vancouver."[4]

Before *Komagata Maru* could complete the return journey War had broken out in Europe. The authorities in India did not allow the passengers to land at any intermediate port but made them proceed to Calcutta. On the 29th September the vessel was made

1. Report of the Indian Sedition Committee, 1918, p. 146.
2. The Indian Sedition Committee describes them as members of the *Ghadar* party who had come to reconnoitre the position.
3. Indian Sedition Committee Report, 1918, pp. 147.
4. *Ibid.*, p. 148.

to moor at Budge-Budge. In the meantime "Ingress into India" Ordinance had been passed which authorised the Government to restrict the liberty of any person entering into India, if such action were deemed necessary for the protection of the State. Under the Ordinance the Government asked all the passengers to get into a special train which was to convey them to the Punjab, free of charge. 'The Sikhs refused to enter the train and tried to march on Calcutta in a body. They were forcibly turned back; and the riot ensued with loss of life on both sides. Many of the Sikhs were armed with American revolvers. Only 60 passengers in all, including the 17 Mohammedans on board, were got off in the train that evening. Eighteen Sikhs were killed in the riot ; many were arrested then or subsequently ; and 29, including Gurdit Singh, disappeared. Of those who were arrested the majority were allowed to go to their homes in the following January. Thirty-one were interned in jail."[1] Thus ended the attempt to circumvent the Canadian immigration laws.

X

The *Komagata Maru* episode embittered the feelings of the Sikhs against the British Government, whom they held responsible for all their misfortunes. The Sikhs abroad—some 4,000 of them were in Canada and there were some in the U.S.A., Philippines, Hong Kong, China etc.,—became more liable to be influenced by the revolutionary propaganda of the *Ghadar* party, which was planning a revolution in India with the help of the Germans, as stated above.[2] The *Ghadar* revolutionaries urged the Sikhs to go back to the Punjab and help to overthrow the Government which had treated them so badly in spite of their past services to the Empire. "Numbers of emigrants listened to such calls and hastened back to India from Canada, the United States, the Philippines, Hong Kong and China."[3]

The propaganda of the *Ghadar* party increased in intensity during 1914-15. The *Ghadar* party had been organised by Har Dayal with the help of Ram Chandra, Peshawari and Barkatulla and had its headquarters in California. After initiating the revolutionary movement in the Punjab,[4] Har Dayal reached the United States of America early in 1911 and settled down in Berkeley in California, where a sort of revolutionary organisation was already at work among the Sikh immigrants. He at once set to work to create a powerful revolutionary centre there. He organised a lecturing tour all over the United States. In 1913 he started a newspaper called "*Ghadar*" (Revolt), and printed it in several Indian vernaculars in the "*Jugantar Ashram*" for free distribution among the Indian immigrants in America and the Far East and among various

1. Indian Sedition Committee Report, 1918, p. 198.
2. See pp. 224-25, *Supra*.
3. *Ibid.*, p. 199.
4. See p. 226, *Supra*.

classes of the people in the different parts of India. The *Ghadar* has been described as "of a violently anti-British nature, playing on every passion which it could possibly excite, preaching murder and mutiny in every sentence, and urging all Indians to go to India with the express object of committing murder, causing revolution and expelling the British Government by any and every means.[1]" Har Dayal pushed on the work of the party both through the *Ghadar* and by holding public and private meetings. Har Dayal was a powerful writer and speaker and his speeches were very effective. On March 16, 1914, he was arrested by the American authorities with a view to his deportation as an undesirable alien. He was released on bail and entrusting the work of the *Jugantar Ashram* to Ram Chandra, he and Barkatulla fled to Switzerland and from thence to Germany. There, as has already been stated,[2] they organised the Indian National Party at Berlin, and planned, with the help of Germany, to bring about a stupendous revolution in India from two ends—Bengal in the East and the Punjab in the North-West.

The revolutionary movement in the Punjab during the first there years of the War was directed from two different centres outside India and consisted of two separate strands, one composed very largely[3] of the returned Sikh immigrants and the other of the Pan-Islamic Mohammedans. The Sikhs were directed from America and the Far East and were helped by Pingley, who has been specially deputed by the *Ghadar* party from America for the purpose, and Ras Bahari Basu, who had been sentenced to be hanged in Delhi Conspiracy Case but who had escaped arrest. The pan-Islamic conspiracy was directed from Kabul by Barkatulla and Mahendra Pratap as will be seen a little later.

XI

Shortly after the outbreak of the Great War shiploads of Sikh immigrants began to arrive at Calcutta, Madras and Colombo. According to the information received by the Government many of them had become converts to the *Ghadar* creed and were returning to the Punjab to stir up revolution. The "Foreigners" Ordinance, passed on August 29, 1914, to prevent the entry of undesirable aliens into India, was inapplicable to the case of returned emigrants. A new Ordinance, called the "Ingress into India" Ordinance was passed and issued on September 5, 1914. It was first applied to the *Komagata Maru* passengers.

On October 29th, another Japanese steamer *Tosa Maru*, carrying 173 Indian passengers, mostly Sikhs from America and the Far East, arrived at Calcutta. It contained leaders of the revolutionary movement, each of which was to work in a particular area of the

1. Indian Sedition Committee Report, 1918, pp. 145-46.
2. See pp. 224-25, *Supra*.
3. There were a few Mohammedans and Hindus as well

province. By the 16th March, 1915, 3,125 emigrants had passed through the hands of the police into the Punjab. Their cases were closely scrutinised with the help of local committees of influential Sikhs, appointed specially for the purpose by the Punjab Government, as a result of which 189 were interned in jails, 704 were restricted to their villages and 2,211 were allowed full freedom of movement for the time being.[1] These measures upset the prepared plans of the emigrants but they were able to evolve new schemes later with the help of Pingley and Rash Behari Basu. In the meantime they started a campaign of loot and murder to equip themselves with necessary funds. On November 27, 1914, a gang of 15 men was proceeding to raid the Moga sub-divisional treasury, when it was challenged by a police sub-Inspector and a *ziladar*. Both of them were shot dead by the dacoits ; who were, however, chased by the villagers and the police, with the result that two of the gang were killed, seven were captured and the rest escaped. On the 28th, another gang had collected in a village in Amritsar District but finding that the police and the cavalry were following, it dispersed. A police officer had gone to arrest a suspected emigrant, Prithi Rajput, on December 8, 1914. He was attacked and was almost done to death. On the 17th, a gang of returned emigrants robbed a Brahman of Pipli village in the Hissar District of booty worth Rs. 22,000.

The Government of the Punjab considered the situation serious and approached the Government of India for a stringent Ordinance to deal with the new menace. While the draft Ordinance was being examined the returned emigrants pursued their planned course of dacoities and murders. During the months of December 1914, and January and February 1915, a number of dacoities and robberies were committed in the central districts of the Punjab and attempts were made to derail trains and to destroy railway bridges. And above all a plot was hatched to bring about a simultaneous rising in the three important military towns in the Punjab on February 21st, 1915.

The Lahore Conspiracy, as it came to be called, was elaborately planned by Pingley and Rash Behari Basu. A factory for the manufacture of bombs was established at Amritsar ; but the headquarters of the movement were located in Lahore with Rash Behari Basu as the chief director. He "sent out emissaries to various cantonments in upper India to procure military aid for the appointed day. He also tried to organise the collection of gangs of villagers to take part in the rebellion. Bombs were prepared ; arms were got together ; flags were made ready ; a declaration of war was drawn up ; instruments were collected for destroying railways and telegraph wires.....It became manifest that the plotters had designed simultaneous outbreaks at Lahore, Ferozepur and Rawalpindi ; and later it appeared that their operations were intended to cover a far wider area..."[2] The Government received infor-

1. The Indian Sedition Committee Report, 1918, p. 155.
2. For details, see Indian Sedition Committee Report, 1918, pp. 152-153.

mation of the projected rising through a spy and raided the headquarters of Rash Behari Basu. "Thirteen in all were taken and four houses searched. Twelve bombs were seized, five of which were loaded bombs of the Bengal pattern.....Rash Behari and Pingley escaped, the latter only for a time as he was arrested a month later in the Lines of the 12th Cavalry at Meerut with bombs in his possession."[1]

The rising was thus nipped in the bud, but political dacoities and murders continued for some time after. A few prominent Sikh co-operators like Sardar Chanda Singh and Sardar Bahadur Achhar Singh and a witness in the first Lahore Conspiracy Case, named Kapur Singh, were murdered. By August 1915 the movement had subsided and on January 31st, 1916, the Punjab Government was able to write :—"The returned emigrants among the Sikhs are reported to be settling down, and the feeling among the Sikhs generally is reported to be more satisfactory than at any time for some years."[2]

This change was brought about, according to the claims of the Punjab Government, by the vigorous action taken under the Defence of India Act, which was passed in March 1915 and by rallying the loyal elements in the population to the side of the Government.

XII

As already stated, the Punjab Government had submitted to the Viceroy a draft Ordinance for consideration in December 1914. It was intended to provide for a speedy and less public trial of cases of political crime committed by the returned emigrants. It created a new substantive offence, "the carrying of arms in suspicious circumstances" and provided, subject to the sanction of the Local Government, "(*a*) for the elimination of committal procedure in the case of offences of a political or quasi-political nature ; (*b*) for the elimination of appeal in such cases ; (*c*) for the taking of security from persons of the class affected by a more rapid procedure than that prescribed by the ordinary law ; (*d*) for the prompt punishment of village officers and the finding of villagers colluding with and harbouring revolutionary criminals."[3]

The Government of India did not consider the matter so urgent as to require the issuing of an Ordinance at once ; but the Government of the Punjab went on pressing for the grant of special powers, especially after the discovery of the Lahore plot of February 21st. The Government of India was already contemplating the enactment of a Defence of India Act, somewhat on the lines of the English Defence of the Realm Act. They decided to include in it provisions

1. Indian Sedition Committee Report, 1918, p. 154.
2. *Ibid.*, p. 157.
3. *Ibid.*, p. 151.

to meet the special needs of the Punjab and Bengal—on the lines suggested in the draft Ordinance proposed by the Punjab Government.

The Defence of India Act, 1915, which was rushed through the Imperial Legislative Council in a single sitting on March 18, 1915, was thus not purely a war measure. It was at the same time intended to repress political crime and even to supersede the ordinary criminal law of the land in some cases, as was pointed out by the Hon'ble Pt. M. M. Malaviya in the course of debate on the measure in the Council. Section 3 brought under the purview of the Act "any person accused of any offence punishable with death, transportation or imprisonment for a term which may extend to seven years."[1] "Now", said Pt. Malaviya, "that practically abolishes the provisions of the Criminal Procedure Code for the trial of ordinary offences."[2]

There was no opposition to the measure so far as those provisions were concerned which were considered necessary to protect the military and naval interests of the country or the Empire. Nor was any opposition offered to the parts included for the punishment and suppression of violent political crime. But serious objection was taken by several non-official members to the creation of Special Tribunals and to their constitutions, for the trial of cases under the Act, and to the power given to award capital sentences to the Special Tribunals.

It was felt that cases under the Act should either be dealt with by Court Martial, where offences relating to defence were concerned, as in England, or by the ordinary courts in the case of other offences. But Section 4 provided that all trials under the Act should be held by Special Tribunals, each consisting of three commissioners, appointed by the Local Government. The qualifications prescribed for the Commissioners were not considered high enough by several non-official members. It was felt that persons below the rank of High Court Judges should not be appointed; but the Act made eligible Sessions Judges and Additional Sessions Judges of three years' experience for appointment as Commissioners and insisted upon the possession of legal knowledge or judicial experience from only two of the three Commissioners.[3] The Act empowered the Commissioners to inflict death sentence on the accused if he had contravened any rules or orders framed under the Act with the intention of waging war against the King or of assisting the King's enemies. "A prisoner taken in war is interned", argued Pandit Malaviya, "and will not the ends of public safety and of justice be fully met if an offender of the type we are considering is so interned, or transported for life.....My Lord, there is always a danger of irrevocable injustice in the case of a death

1. "Acts of 1915", p. 8.
2 Indian Legislative Council Proceedings, Vol. LIII, p. 490.
3. "Acts of 1915", p. 8.

sentence. Such danger is enhanced where the trial is more or less of a summary character"[1]; and, it may be further added, that where there is no provision for appeal to a higher court, Section 6 of the Act provided that the judgment of the Commissioners was to be "final and conclusive."[2]

XIII

The persons involved in the Lahore conspiracy and other political offences were tried by Special Tribunals constituted under the Defence of India Act, 1915. Altogether nine batches of conspirators were tried; but it is sufficient to deal here very briefly[3] with the three Lahore Conspiracy Trials. In the first case 61 accused were before the Court, including almost all the leaders of the movement, among them Pingley and Bhai Parma Nand. The latter had returned to India in 1913 and was supposed to be a close associate of Har Dayal in America. "He was found to be a leader of the Conspirators" by the Special Tribunal, and was sentenced to death. The sentence was commuted by the Viceroy to transportation for life, which was remitted later.

In the second case the accused numbered 74. Even after the failure of the 21st February Plot the returned emigrants continued their revolutionary activities. They tried to do propaganda work among the students and the Indian Army and were responsible for several dacoities and murders.

In the third Lahore Conspiracy Case the number of the accused was only 12 but they were connected with the German plot to invade India through Burma. The base was at Bangkok in Siam where some Indian revolutionaries had collected from Canada and were working in league with the German Agents.

The sentences in these conspiracy cases were very heavy, especially as compared with those awarded in Bengal. In all 175 persons were put on trial "of these 136 were convicted of offences in nearly all cases punishable with death, 38 were sentenced to death, but the sentences were commuted to transportation for life in 18 cases....., and in the end only 20 were hanged; 58 were transported for life; 58 were transported or imprisoned for shorter periods.[4]

Mention has been made above of the attempts made by the revolutionaries to disaffect the Indian troops. It appears that they were successful in one or two cases. The military authorities did not think it advisable, so writes Sir Michael O'Dwyer, "to have a public Court Martial which would make public the mutinous pre-

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1. Indian Legislative Council Proceedings, Vol. LIII, p. 491.
2. "Acts of 1915", p. 9.
3. For details see Indian Sedition Committee Report, 1918, pp. 157 to 160.
4. O'Dwyer : India as I knew it, p. 207.

parations"[1], but sent "the tainted Sikh Squad on" to the Front. "The depot was moved to a distant station, and when it was detraining, some of the bombs, which had been secreted for months after 19th February, exploded. A Court-Martial could not now be avoided. The result was that eighteen men of the regiment were sentenced to death and twelve were actually executed."[2]

XIV

A serious attempt to stir up revolution in the Punjab was also made during the War by Pan-Islamist party, directed from Kabul by the Indian revolutionaries, Mahendra Pratap and Barkatulla, who were sent there by the Indian National Party of Berlin.

The Pan-Islamic movement had gathered strength in India during the Turko-Italian and the Balkan Wars of 1911-13. The leaders of the movement were Maulana Zafar Ali, Editor of the *Zamindar*, Lahore, and the two brothers, Maulanas Mohammad Ali and Shaukat Ali, who were editing, the *Comrade* and the ***Hamdard*** from Delhi. They disliked the attitude adopted by Great Britain towards Turkey and stirred up deep sympathy among Indian Mussalmans for their co-religionists, the Turks. Subscriptions were raised in 1912 for the Turkish Red Crescent and Maulana Zafar Ali went himself to present part of the money to the Grand Vizier at Constantinople The gift was gratefully acknowledged by the Sultan by sending a carpet for the Badshahi Mosque at Lahore early in 1914.

The tone of the Pan-Islamist Press became more and more critical of the British policy after the return of Maulana Zafar Ali from Turkey. The Punjab Government confiscated the security of the *Zamindar* in 1913. Fresh security was demanded and paid but without effecting any change in the policy of the newspaper, with the result that shortly afterwards both the security and the press were confiscated by the Government. When the War broke out Maulana Zafar Ali and the Ali Brothers were interned in their villages for the duration of the War.

Shortly after the entry of Turkey into the Great War Indian revolutionaries in Berlin decided to send Mahendra Partap and Barkatulla to Kabul to utilise the Pan-Islamic sentiment to foment a Muslim rising in the East. Mahendra Pratap was a wealthy landowner in the United Provinces, and was married in a Sikh ruling family. He had gone to Switzerland soon after the beginning of the War and there came under the influence of Har Dayal. He was taken to Berlin and introduced as a Prince with great influence. Barkatulla was a resident of Bhopal who had become a professor at the Tokyo University in 1909. He started a paper, the *Islamic Fraternity*, soon after his arrival in Japan. In 1911, he visited

1. *Ibid.*, p. 203.
2. *Ibid.*

Cairo, Constantinople, St. Petersberg and established contact with Krishna Varma. On his return to Japan his paper was suppressed and early in 1914 he was deprived of his professorship. He joined Har Dayal in San-Francisco and became a leader of the *Ghadar* Party and later went with him to Berlin. He and Mahendra Pratap were sent to Kabul with a Turko-German Mission to disaffect the ruler of Afghanistan and to foment revolution in the Northern ndia.

In the Punjab the Pan-Islamic movement had taken root. Feeling was running high in the minds of the Muslim youth. A secret organisation was trying to recruit students for revolutionary work. It was successful in getting 15 college students from Lahore and some from Peshawar and Kohat and to send them by devious routes to a place beyond the North-West Frontier, which was the headquarters of the anti-British Wahabi sect of Mujahaddin, known as the "Hindustani Fanatics". From there they proceeded to Kabul—"where they were first placed in strict detention and afterwards released and allowed some freedom of movement under surveillance."[1] They were involved in what is known as the "silk letter" conspiracy. "This was a project hatched in India with the object of destroying British rule by means of an attack on the North-West Frontier, supplemented by a Mohammedan rising in the country. For the purpose of investigating and executing this plan a certain Maulvi Obeidulla crossed the North-West Frontier early in August 1915 with three companions, Abdulla, Fateh Muhammad and Muhammad Ali."[2] Obeidulla was trained as a Maulvi in the Deoband Religious School. He was able to influence the head Maulvi of the School, Muhammad Hasan, with anti-British ideas. "On September the 18th, 1915, Muhammad Hasan, with a certain Muhammad Mian and other friends, followed Obeidulla's example by leaving India, not however for the North, but for the Hedjaz tract of Arabia."[3]

The Muhammad Hasan Party set to work in Arabia and obtained a declaration of *Jihad* from the Turkish Military Governor of the Hedjaz, Ghalib Pasha, Muhammad Mian returned with this declaration called "*Ghalibnama*" in 1916. He distributed copies of it both in India and among the frontier tribes and joined Obeidulla and party in Kabul. The *Ghalibnama* after reciting the achievements of the Turks and the Mujahaddin and the preparations made by Muslims in other parts of Asia, Europe and Africa appealed to the Muslims in India :—"Oh ! Muslims, therefore attack the tyrannical Christian Government under whose bondage you are...Hasten to put all your efforts, with strong resolution, to strangle the enemy to death and show your hatred and enmity for them."[4] The *Ghalib-*

1. Indian Sedition Committee Report, 1918, p. 175.
2. *Ibid.*, p. 176.
3. *Ibid.*, p. 177.
4. *Ibid* , p. 178.

nama asked Indian Mussalmans to trust Muhammad Hasan and to "help him with men, money and whatever he requires."[1]

The base for action was located in Kabul, Obeidulla and his friends had already reached there after visiting the Hindustani Fanatics and had established contact with the Turco-German Mission, the Indian R volutionaries from Berlin, and the Muhajrin students from India. In 1916 Muhammad Mian also reached Kabul after distributing copies of the *Ghalibnama* on his way. They all joined hands and worked out an elaborate scheme of action. A "Provisional Government" was formed with Mahendra Pratap as President and Barkatulla as the Prime Minister. "The Provisional Government" dispatched letters to both the Governor of Russian Turkistan and the then "Czar of Russia"—the latter was on a gold plate—"inviting Russia to throw over the alliance with Great Britain and assist in the overthrow of British in India."[2] The "Provisional Government" also attempted an alliance with the Turkish Government through Maulana Muhammad Hasan. Two letters, one by Obeidulla and the other by Muhammad Mian were addressed to Maulana Muhammad Hasan. They were written on yellow silk and were sent with a covering note by Obeidulla to Sheikh Abdur Rahim of Hyderabad, Sind, with a request to convey them to Maulana Muhammad Hasan in Mecca, either through a trustworthy messenger or by himself in person.

"Muhammad Mian's letter mentioned the previous arrival of the German and Turkish missions, the return of the German,[3] the staying on of the Turks, 'but without work', the runaway students, the circulation of the '*Ghali nama*', the 'Provisional Government', and the projected formation of an 'Army of God'. This army was to draw recruits from India and to bring about an alliance among Islamic rulers. Muhammad Hasan was to convey all these particulars to the Ottoman Government. Obeidulla's letter contained a tabular statement of the 'Army of God'. Its headquarters were to be at Medina, and Muhammad Hasan himself was to be General-in-Chief. Secondary headquarters under local generals were to be established at Constantinople, Teheran and Kabul. The General at Kabul was to be Obeidulla himself. The table contains the names of three patrons, 12 field-marshals and many other high military officers. Of the Lahore students, one was to be a major-general, one a colonel, and six lieutenant-colonels."[4]

Among the *Muhajrin* students who had reached Kabul were two sons of a Khan, who was a friend of the Lieutenant-Governor of the Punjab. The Khan tried (unsuccessfully) through Sir Michael O'Dwyer to arrange for the return of his sons—who sent him messages through a family servant who had gone with them to Kabul.

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1. Indian Sedition Committee Report, 1918, p. 178.
2. *Ibid.*, p. 179.
3. The Germans of the Mission had left early in 1916, finding it useless to stay any longer at Kabul.
4. Indian Sedition Committee Report, 1918, p. 178.

The "Silk Letters" were sent to India through this servant. They were sewn up inside the lining of his coat which he left in an Indian State, before going to see the Khan. But the Khan smelled a rat and forced a confession out of the servant by use of threats. The coat was at last produced and the Khan cut out the "Silk Letters" and handed them over to the Commissioner of his Division, who sent them to the Lieutenant-Governor.[1]

Thus was discovered the "Silk Letters" Conspiracy by the Punjab Government which took precautionary measures to prevent its materialisation.

1. O'Dwyer : India as I knew it, p. 178.

19

CONSTITUTIONAL MOVEMENT

I

Political life in India was brought to a standstill by the twin policy of Repression and Reforms followed by the Government of India. In Bengal, where agitation was most intense and where repression was also at its height, the popular movement had been driven underground and had resulted in producing a heavy crop of revolutionary crime. Elsewhere the national organisations had whithered for lack of proper inspiration. The long imprisonment of Mr. Tilak at Mandalay and the voluntary exile of Babu Arabindo Ghose had deprived "the extremists" of effective leadership. The Moderates and the Muslims were busy working the Morley-Minto Reforms and except for passing the usual resolutions for the redress of certain long standing grievances at the annual sessions of the Moderate National Congress and the Communalist Muslim League, showed no signs of public activity.

The first signs of revival were shown by the Muslim Community. The younger generation of educated Muslims began to realise that their interests were essentially not different from those of their other countrymen. Moreover, the nationalist movements in Islamic countries, especially in Turkey and Persia, influenced their minds and infused in them a more national spirit. At the same time there were other causes at work—such as the unfriendly policy pursued by Great Britain towards Turkey during the Tripoli and the Balkan Wars on the one hand, and the attitude of sympathy shown by the Indian nationalist press towards the Muslims in their grief over the treatment meted out to Turkey by European nations on the other—which had the effect of weaning away the Indian Muslims from the side of the British bureaucracy and of bringing them nearer their own countrymen of the other communities. They gradually began to take steps to effect a *rapproachement* with them. The first real steps were taken in this direction in 1913.

On the initiative of the younger leaders a meeting of the Council of the All-India Muslim League was convened in Calcutta in December 1912 to consider the question of adopting a new constitution for the League. This meeting was attended by all the

progressive leaders of the Muslim Community, including Mr. Mohammad Ali Jinnah, who had so far held aloof from the League.[1] He was then a staunch Congressman and had refused to join a purely communal organisation as the Muslim League was from 1906 to 1913. The meeting accepted[2] the national ideal embodied in the Congress creed, and drafted a new constitution of the League which was enthusiastically adopted at the annual session of the All-India Muslim League, presided over by Sir Ibrahim Rahimatoola and held at Lucknow on March 22nd, 1913.

The new Constitution defined the objects of the League as follows :—"(*a*) to maintain and promote among the people of this country feelings of loyalty towards the British Crown ; (*b*) to protect and advance the political and other rights and interests of the Indian Mussalmans ; (*c*) to promote friendship and union between the Mussalmans and other communities of India ; (*d*) without detriment to the foregoing objects, attainment, under the aegis of the British Crown, of a system of self-government suitable to India, through constitutional means, by bringing about, amongst others, a steady reform of the existing system of administration, by promoting national unity, by fostering public spirit among the people of India and by co-operating with the other communities for the said purpose."[3]

This change in the ideal and policy of the Muslim League was warmly appreciated by the Indian National Congress in a special resolution passed in December 1913 at its Karachi Session, which was presided over by Nawab Syed Mohammad Bahadur.[4] The Resolution expressed the hope "that the leaders of the different communities will make every endeavour to find a *modus operandi* for joint and concerted action on all questions of national good....."[5]

The second step towards communal unity and common action was taken by Mr. Jinnah and his associates by inviting the All-India Muslim League to hold its annual sessions in the Christmas week at the same place as the National Congress. This was done for the first time in Bombay in December 1915. The Bombay Session of the League was attended by the leaders of the Congress who were accorded a warm reception and a great ovation when they entered the hall in a body. It was resolved both by the League and the Congress to co-operate together in formulating a common

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1. Among the other progressive leaders who attended were Sir Ibrahim Rahimatoola, Maulana Mohammad Ali and Messrs. Mazarul Haque, Hassan Imam, Mohammad Shafi and Wazir Hassan.

2. The new constitution was opposed strongly by the older men in the League.

3. Indian Year Book, 1914, p. 476.

4. The Nawab was specially selected to mark the appreciation of the Congress for the courageous and patriotic move made by the younger leaders of the Muslim community towards national unity.

5. Besant : How India Wrought for Freedom, p. 564.

scheme of post-war reforms and in pressing for its adoption by the Government. Committees were appointed by the two foremost political organisations in the country for this purpose. They met at Calcutta and finally at Lucknow in December 1916, where the sessions of the Congress and the League were also held shortly afterwards. A joint scheme of reforms was formulated and the Hindu-Muslim question was settled by agreeing to a scheme of special representation for the Muslims in the various legislatures in India much in excess of their numbers in places where they were in a minority. This scheme was enthusiastically approved by both the National Congress and the Muslim League at their annual sessions in December 1916 at Lucknow and came to be known as "the Congress-League Scheme". Unity of action was thus secured between the two great communities of India and between the two great political organisations, which between them—especially after the Moderate Extremist reunion in 1916—represented the whole of the politically-conscious British India.

II

The Indian National Congress had become a purely moderate organisation after the Surat Split in 1907 and as a consequence it had no doubt suffered in prestige in the opinion of the people in the country. But the organisation had indeed shown a remarkable vitality and recuperative capacity and, by the end of 1914, it had regained its influence and primacy in the political life of the nation. This was due to several causes, but above all to the fact that there was no rival organisation founded by the Extremists who had become utterly disorganised under the repressive policy of the Government. Under the circumstances whatever political life of the nationalistic variety existed in the country was crystallized round the Congress and was represented by it. The Indian National Congress—with a new constitution carefully defining the objects and requiring strict adherence to the agreed rules of transacting business—continued to meet annually, from 1908 onwards, in some important city and to agitate for the redress of the national grievances and for the removal of disabilities that still existed on Indians at home and in the colonies. And, what was perhaps more important, it continued to attract to its sessions the best men in the public life of the nation—men like Pherozeshah Mehta, Gopal Krishna Gokhale, Surendranath Bannerjee, D. E. Wacha, Madan Mohan Malaviya, Lajpat Rai, Satyendra Sinha, Bhupendranath Basu, Ambika Charan Mazumdar, Krishnaswamy Iyer, N. Suba Rao, Sankaran Nair, Mohammad Ali Jinnah, Mazarul-Haq, A. Rasul, Hasan Imam, Syed Mohammad, Moti Lal Nehru, Srinivas Sastri, C. Y. Chintamani, Sachidanand Sinha, Tej Bahadur Sapru, Bishan Narain Dhar, Harkishan Lal, Gokaran Nath Misra and, last but not the least, Mrs. Annie Besant, the President of the Theosophical Society and a great religious, social and educational leader in India. Till 1914 Mrs. Besant was occupied with the work of religious, educational and social regeneration of the people of India,

her adopted motherland : but, in the year of the beginning of the Great War, she decided to enter the political field and for the first time attended the session of the Indian National Congress at Madras in December 1914—and, as was to be expected, at once came to the forefront of the Congress platform. During the next four years she played a leading part in the Councils of the Congress—occupying the Presidential chair in December 1917—and in the political life of British India. The credit of arousing the Indian people from political torpor and of organising them for political action belongs to her and is only shared with Lokmanya Tilak. And it was also Mrs. Besant who was largely responsible for the re-entry of the Extremists, Mr. Tilak and his followers, into the Congress and the re-union of the Moderates and the Extremists at Lucknow in 1916.

III

The Indian National Congress continued to function between 1908 and 1916 as before 1905 holding its annual session at a big urban centre in the X-mas holidays and passing the usual resolutions on all important political and economic questions. In 1914 it sent a small deputation to England consisting of Messrs. Bhupendra Nath Basu, M. A. Jinnah, N. M. Samarath, S. Sinha, Mazarul-Haq, the Hon'ble Mr. B. N. Sarma and Lala Lajpat Rai to rouse public opinion on the subjects of Indian grievances and disabilities especially on the position of Indians in South Africa and on the demand for the abolition or radical reform of the India Council. Except in one case, *i.e.*, the abolition of the hated system of indentured labour, the voice of the Congress did not prove effective, and the Indian grievances and demands remained unredressed and unfulfilled. The greatest achievement of the Congress during this period, 1908—16, when it was under the complete control of the Moderates, was the achievement of national unity and the formulation of a joint scheme of political reforms acceptable to the two great political organisations in the country. It may appear uncharitable to point out that communal unity in 1916 was secured only at the sacrifice of an essential principle of national and democratic life ; but it must be done in the interest of scientific accuracy. The Congress had consistently opposed the creation of separate electorates for the Mussalmans though it had fully recognised the necessity of providing a fair and adequate representation for them and for other communities where they were in a minority. Separate electorates were rightly regarded by Congressmen as injurious to the national life of the country and were justly condemned as anti-national and anti-democratic. But in 1916, the Congress, in order to secure unity of action[1] agreed to the system of communal

1. Many of the Congressmen were fully conscious of the evil effects of communal electorates ; they looked upon them as the price that had to be paid to secure union for winning Swaraj. Unity was indispensable. The British were adopting all manner of means to divide the people. They must not lag behind and should secure unity at all costs. After Swaraj when there is no third party to divide them and the spirit of co-operation had fully developed, communalism was sure to die a natural death.

representation and the principle of weightage and also of communal veto in legislation. All the three concessions were wrong in principle and were opposed to the life-long convictions of many of the Congressmen and they formed decidedly the most objectionable feature of the Congress-League Scheme. And yet while the whole constitutional portion of the Scheme was rejected by the Government the communal agreement contained in it was accepted and was made a part and parcel of the Reforms of 1919. Such is the irony of fate !

However, to be fair to the Congressmen of 1916, it should be added that they regarded the concessions in their very nature to be temporary and that they were somehow pursuaded to believe that in a very short period the system of separate electorates would cease to exist and yield place to a really national and democratic system of representation.[1] Such an expectation, it need hardly be pointed out today, was most unnatural, and was doomed to result in disillusionment and tragic disappointment.

IV

During the period under review the subject that aroused the strongest feelings of discontent and indignation and also of abject humiliation was the treatment of Indians in South Africa. Mention has already been made[2] of the conditions in South Africa which forced Mahatma Gandhi to start *Satyagraha* against the Asiatic Registration Act (popularly known as the Black Act) passed by the Transvaal Parliament in March 1907. When about 150 men including Mahatma Gandhi, had gone to jail, negotiation were started by the Government and an agreement was reached between Mahatma Gandhi and General Smuts according to which Indians were to register voluntarily and the Government was to repeal the "Black Act".[3] But when Mahatma Gandhi had carried out his side of the Agreement—with opposition from some of his followers and at the risk of his life[4]—General Smuts refused to repeal the "Black Act". In the meantime another Act—called the Transvaal Immigration Restriction Act, 1907, "preventing the entry of a single Indian newcomer"—had been passed by the Transvaal Parliament. Under the circumstances, there was no recourse but to resume the *Satyagraha* —which was now directed against both the Asiatic Registration Act and the Immigration Registration Act. An "ultimatum" was sent to General Smuts "that if the Asiatic Act is not repealed in terms of the settlement, and if Government's decision to that effect is not communicated to the Indians before a specific date, the certificates

1. This criticism of the Congress Pact of 1916 made in the first edition published in 1933 has been kept in tact, without making any change.

2. See pp. 128-30, *Supra*.

3. General Smuts had told Mahatma Gandhi : "...I will repeal the Asiatic Act as soon as most of you have undergone voluntary registration". Gandhi : Satyagraha in South Africa, p. 242.

4. On his way to the Registration office Mahatma Gandhi was assaulted and seriously injured by a Pathan, Mir Alam, and his associates.

(of registration) collected by the Indians would be burnt and they would humbly but firmly take the consequences."[1] On the 16th August, 1908, the collected certificates, over 2,000 of them, were burnt amidst deafening cheers in a public meeting of Indians at Johannesburg and the *Satyagraha* was re-started. A large number of men went to jail—a number of them were deported to India. Men in jails were subjected to all sorts of hardships.....one of them succumbed to the rigours of cold and died of pneumonia. In one jail the *Satyagrahis* were forced to go on hunger strike. The deputation of Mr. Gandhi and Seth Haji Habib to England returned empty handed. Mr. Gandhi started the Tolstoy Farm on the property of Mr. Kallenbach for the families of jail-going *Satyagrahis*. And the struggle continued. Stray *Satyagrahis* now and then went to jail.

The resumption of the *Satyagraha* in South Africa in 1908 stirred up the feelings of the people in India. Meetings were held in all parts of the country. Subscriptions were raised and money was sent to South Africa for the continuance of the struggle. In February 1910, Mr. Gokhale moved a resolution in the Imperial Legislative Council recommending the grant of powers to the Governor-General in Council to prohibit the recruitment of indentured labour in British India for the colony of Natal. The object was to bring pressure on the Union Goverment in South Africa to improve the condition of Indians in the colony. The Government accepted the resolution and prohibited all recruitment of indentured labour for Natal without producing the desired result. Mr. Gokhale asked the help of the Secretary of State for India to go to South Africa to study conditions on the spot. He toured the various parts of South Africa in company with Mr. Gandhi in October and November 1912. He had a long discussion with the Union Ministry and left South Africa on November 17, 1912, after obtaining a promise from General Botha "that the Black Act would be repealed and the £3 tax abolished."[2]

General Smuts again committed a breach of faith and refused to introduce legislation to repeal the £3 tax on the plea that the Natal members were opposed to it. There was no recourse but to add the repeal of the £3 tax to the programme of *Satyagraha*.

By this time, the little band of *Satyagrahis* had become almost exhausted. But soon another grievance arose which enabled Mahatma Gandhi to revive the *Satyagraha* is an active form and to invite the help of the women as well. A judgment by Mr. Justice Searle of the Cape Supreme Court on March 14, 1913, declared all marriages, not solemnised in the Christian fashion and not duly registered, as invalid. Mahatma Gandhi requested the Union Government to pass special legislation to cover the case of Indians; but the Government refused the request. Thereupon Mahatma Gandhi

1. Gandhi : Satyagraha in South Africa, p. 306.
2. *Ibid.*, p. 408.

gave a call to his people, including the women, to offer *Satyagraha* on this issue. The first batch containing women which was arrested was of the 16 residents of the *Phoenix Ashram*. It contained four women with Mrs. Kasturba Gandhi at their head. They were all sentenced to three months' imprisonment with hard labour. The next batch to be similarly sentenced was of eleven women who had resided in the 1908-09 struggle at the Tolstoy Farm. They had crossed over to Natal and had gone to arouse their brethren at the Newcastle mines. The workers at the mines, some 6,000 of them, responded to the call of duty and went on a strike. After the arrest of the eleven women, Mr. Gandhi reached Newcastle and assumed the leadership of the strikers.

The strikers were harshly treated by the miners. They were deprived of their lodgings and had to camp in the open with small beddings and their women and children. Their enthusiasm was however fired by the imprisonment of the women of the Tolstoy Farm and they refused to go back to the mines. Mr. Gandhi decided to march with them to the border of Transvaal and offer *Satyagraha* for the redress of Indian grievances.

The historic march of "the Army of Peace" from Newcastle to the border of Transvaal, with Tolstoy Farm as the objective, if the strikers were not arrested at the border, was begun on the 28th October, 1913, with 2,037 men, 127 women and 57 children. Mr. Gandhi was arrested three times on the way—twice he was released on bail, but the third time he was taken to Durban for trial and sentenced to nine months' rigorous imprisonment. On the 10th November, the strikers were also arrested and were sent back in three special trains to Newcastle where they were prosecuted and sent to jail. But instead of putting them in ordinary jails they were surrounded with wire-netting in the compounds of the mines with the miners' European staff as the Warders. The strikers were to be forced to work in the mines. Writes Mr. Gandhi, "The labourers were brave men, and they flatly declined to work on the mines with the result that they were brutally whipped. The insolent men dressed in a brief authority over them kicked and abused them and heaped upon them other wrongs which have never been placed on record. But the poor labourers patiently put up with all their tribulations."[1] Indian labourers in other parts of South Africa struck in sympathy with their brethren of Newcastle. In several places there was firing and a number of Indian workers were killed. More women offered *Satyagraha* and were arrested and sentenced. They were treated with callousness and one of them a girl of 16, Valiamma Mudaliar, died soon after her release as the result of fever contracted in jail. The whole Indian community in South Africa rose up like one man to combat the organised tyranny of the race-conscious, arrogant Europeans.

The brave stand made by the small Indian Community against

1. Gandhi : Satyagraha in South Africa, p. 476.

the cruel and unjust government in South Africa extorted admiration from one and all in India. Crowded meetings were held all over India to protest against the inhuman treatment meted out to their compatriots in South Africa. The hearts of the people went out in sympathy with their suffering brethern. Subscriptions were raised all over India to which Princes and the poor subscribed with enthusiasm for the help of the *Satyagrahis*. Lord Hardinge took the unusual step of associating himself and his Government with the Indian people in their distress and sympathy for the *Satyagrahis*. In a speech at Madras in reply to the addresses of the Mahajan Sabha and Madras Provincial Conference Committee on November 24, 1913, Lord Hardinge, after describing the action taken by the Government, said :—"Recently your compatriots in South Africa have taken matters into their own hands by organising what is called passive resistance to laws which they consider invidious and unjust—an opinion which we who watch their struggle from afar cannot but share. They have violated as they intend to violate those laws with full knowledge of the penalties involved and ready with all courage and patience to endure those penalties. In all this they have the sympathy of India deep and burning and not only of India but of all those who, like myself, without being Indians themselves have feelings of sympathy for the people of this country."[1] He ended by demanding an impartial enquiry into the allegations of labourers and inhuman treatment meted out to the *Satyagrahis*, men and women, by a committee "upon which Indian interests shall be fully represented." In the meantime, Mr. Gokhale, who had kept in touch with the day-to-day happenings in South Africa by cable, asked Messrs. Andrews and Pearson to go to the spot to render all possible help to the Indians in Natal and Transvaal. The Government of India sent Sir Benjamin Robertson to secure redress of Indian grievances. The South African Government appointed a committee of enquiry but, as its constitution was considered unsatisfactory, the *Satyagrahis* refused to give evidence before it. A provisional agreement was drawn up between the Government and Mr. Gandhi—Gandhi-Smuts Agreement of 1913—which was carried out largely by the passing of the Indians Relief Act of 1914. The Act abolished the hated £3 poll tax, validated Indian marriages with the proviso that only one wife and her progeny were to be regarded as legal ; and recognised the domicile certificates "as conclusive evidence of the right of the holder to enter the Union as soon as his identity was established."[2] Other matters were settled by correspondence between Mr. Gandhi and General Smuts. "The passing of the Indians Relief Bill and this correspondence", wrote Mr. Gandhi in his last letter to General Smuts, "finally closed the *Satyagraha* struggle which commenced in the September of 1906 and which to the Indian community cost much physical suffering and pecuniary loss and to the Government much anxious thought and consideration."[3]

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1. Modern Review, December 1913, p. 638.
2. Gandhi : Satyagraha in South Africa, p. 505.
3. *Ibid.*, p. 506.

While *Satyagraha* was going on in South Africa a deputation from Canada, consisting of Messrs. Nand Singh, Narain Singh and Balwant Singh, was touring in India voicing the sufferings and grievances of Indians in Canada. Reference has already been made by the position of Indians in Canada and to the attempt made to Baba Gurdit Singh to circumvent the Canadian immigration laws.[1] The story of the *Komagata Maru* voyages and of the unfortunate Budge-Budge riot has also been related above.[1] It only remains to state that the whole question of the position of Indians in the self-governing colonies was raised by the Indian delegation at the Imperial War Conference of 1917. An able memorandum was submitted on the subject by Sir (later Lord) Sinha to the Conference. A full and frank discussion resulted in the enunciation of the principle of reciprocity. Next year a comprehensive resolution was passed on the subject by the Imperial War Conference recognising the right of each unit to regulate the composition of its population but admitting citizens of other British countries, including India, "for the purposes of pleasure or commerce, including temporary residence for purposes of education", though not for purposes of labour or of permanent settlement. The resolution of 1918, lastly, laid down :—"Indians already permanently domiciled in the other British countries should be allowed to bring their wives and minor children on condition (*a*) that not more than one wife and her children shall be admitted for each said Indian, and (*b*) that each individual so admitted shall be certified by the Government of India as being the lawful wife or child of such Indian."[2]

The problem of Indians in the self-governing colonies was thus settled provisionally by the Resolution of 1918. The settlement was, however, in spite of appearances, one-sided and disadvantageous to India. The right to settle in the unoccupied or thinly peopled areas in the dominions or to go there in search of employment for which Indians had been fighting and making sacrifices for many a long year was at one stroke taken away from them for ever ; and in return the Government of India was given the corresponding right of preventing colonial immigration into India—a right, which need hardly be stated, was of absolutely no use to Indians. All the same there was a decided improvement in the position of Indians that had already settled in the self-governing colonies as a result of the passing of the Resolution of 1918.

V

During the War (1914-18) the question of Indian emigration to the British Crown Colonies also assumed great importance ; and the Government of India was ultimately forced to abolish the hated system of indentured labour. This system had come into existence as a result of the abolition of slavery in 1833. Labour was recruit-

1. See Section IX of Chapter 18, *Supra*.
2. Resolution of the Imperial War Conference of 1918, quoted by "Emigrant" in "Indian Emigration", p. 35.

ed by the planters in the colonies, through their agents in India on a contract basis—usually for a period of 5 years on fixed wages. There was provision for further renewals and for return to India after the termination of the contract or for settlement in the colony as free inhabitants.

From the beginning it was clear that the system of indentured emigration in spite of offering opportunities of monetary gain was undesirable. The methods employed for recruitment were high-handed and fraudulent. In several cases cruel deception was practised on ignorant and innocent persons. Married women were enticed away ; the only sons of old parents were lured away ; relations separated at crowded railway stations or at places of pilgrimage were spirited away ; persons going from one village to another were way-laid and carried off to the far off recruitment depots.[1] The signatures on the agreement forms were obtained by using all sorts of unfair means. The would-be emigrants were given no clear or accurate idea of the conditions in which they were to travel to the colonies or in which they were to live and work when they reached there. No mention was made of the heavy penalties—fines, floggings and imprisonments—under which the system was worked in the colonies. The whole thing was based on fraud and deception.[2] The Government of India no doubt tried to mitigate the conditions by laying down safeguarding provisions[3] in regard to recruitment ; but, as was pointed out by Pandit M. M. Malaviya in the Imperial Legislative Council on March 20, 1916, they were easily evaded by the unscrupulous recruiting agents under the lure of heavy fees.[4] The conditions during the voyages were horrible. Too many persons were herded together under hopelessly insanitary conditions with unsatisfactory arrangements for food and sleep. The inevitable result was terrible sickness and heavy mortality. But bad as the conditions were during recruitment and the voyage they were much worse in the colonies. Labourers in some instances went mad and in several others committed suicide—"The rate of suicide during 1908—1912 among the indentured Indians stood at the appallingly high figure of 926 per million"[5] in Fiji—while many others lived immoral and sinful lives.[6]

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1. For a description of the fraudulent practices and evils of the recruitment system see the Report of Messrs. Andrews and Pearson on Indentured Labour in Fiji.

2. The system was described by Mr. Gokhale in 1912 as "a monstrous system iniquitous in itself, based on fraud and maintained by force.....etc." Speeches of Gokhale, p. 520.

3. For a brief history of the legislation in this connection see "Indian Emigrant" by an "Emigrant," pp. 15-25.

4. In the Western districts of the U. P., the fee for obtaining a recruit was Rs. 45 in the case of men and Rs. 55 in the case of women. See Proceedings of the Imperial Legislative Council, Vol. LIV, p. 400.

5. *Ibid.*, p. 404.

6. The conditions in Fiji are thus described by Messrs. Andrews and Pearson :—"We cannot forget our first sight of the Coolie lines in Fiji. The look

As the people in India came to know of the conditions in which their brethren were living in the colonies they began to agitate for the abolition of the hateful system of indentured emigration. Speeches were delivered and resolutions passed at the annual sessions of the Indian National Congress. Sustained propaganda was carried on in the Press and the elected representatives of the people took up the question in right earnest in the Imperial Legislature. Reference has already been made to the resolution introduced by Mr. Gokhale and passed by the Imperial Legislative Council in 1910, empowering the Government to prohibit indentured emigration to Natal. On March 4th, 1912, Mr. Gokhale moved a more comprehensive resolution in the Imperial Legislative Council recommending the total prohibition of recruitment of indentured labourers in India. Every one of the Indian members present—22 in all—supported the resolution; but the official majority voted it down and the resolution was lost. The Government took its stand on the recommendations of the Sanderson Committee (1909), which had been appointed by the British Government in England to investigate the conditions in the Crown Colonies. The Committee was of opinion that the indentured system was profitable to the emigrants and that whatever abuses existed were capable of remedy. However, to satisfy Indian opinion the Government deputed Mr. McNeil and Mr. Chiman Lal to visit the four Colonies—Jamaica, Trinidad, British Guiana and Fiji—to which indentured emigration was still permitted, and to report on the conditions prevailing there. Their report revealed the existence of shameful conditions in the *coolie* lines in the various colonies but they were of opinion that "the great majority of the emigrants exchanged grinding poverty with practically no hope of betterment for a condition ranging from simple but secure comfort to solid prosperity."[1] The people in India did not agree with the main recommendation of Messrs. McNeil and Chiman Lal for the continuation of the indenture system. They attached more importance to the facts and figures given in the Report which were stated with more graphic detail and emphasis by Messrs. Andrews and Pearson in their Report on Indentured Labour in Fiji, which was also issued about the same time. The Government of India realised that Indian opinion would no longer tolerate the vicious system in spite of its supposed economic advantages and they recommended its total abolition to the Secretary of State in 1915. On the 20th March, 1916, Pandit Madan Mohan Malaviya moved a resolution in the Imperial Legislative Council recommending the abolition of the system altogether. Pandit Malaviya traced the whole history of the question, gave facts and figures about the moral and economic condition of the labourers in the colonies, challenged the statement that their average savings

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on the faces of the men and the women alike told one unmistakable tale of vice. There seemed to be some new and undefinable factor...some strange unaccountable epidemic of vice. The sanctity of the marriage tie is utterly disregarded and bestiality reigns supreme. Women exchange their husbands as often as they like, and girls are practically bought and sold....." *Ibid.*, p. 404.

1. "Indian Emigration", p. 28.

were higher than those of labourers in India,[1] and appealed to the Government to end the vicious system of which "we cannot think", he said, "without intense pain and humiliation of the blasted lives of its victims, of the anguish of soul to which our numerous brothers and sisters have been subjected to by this system."[2] Lord Hardinge accepted the resolution and announced the decision of the Secretary of State "to accept the policy of eventual abolition" but, that time must be given to the colonies to adjust themselves to the changed conditions and to the Secretary of State to work out the details of a system of free emigration in conjunction with the Colonial Office and the Crown Colonies concerned. In the meantime, however, recruitment of indentured labour was prohibited under the Defence of India Act in 1916 ; and before the temporary ban could be lifted, it was abolished altogether permanently. Thus ended the system which had come to be regarded by educated Indians—in the words of Lord Hardinge—"as a badge of helotry".[3]

VI

The abolition of indentured emigration removed one black spot from the fair face of Mother India. Another sore was healed about the same time by the reunion of the Moderates and the Extremists in the same national organisation—the Indian National Congress. The way was paved by the declaration of the loyalty by Mr. Tilak at the outbreak of the Great War shortly after his release. Lokamanya Tilak denied all charges of having ever worked "with the object of subverting British rule in India" and concluded by saying that "at such a crisis it is the duty of every Indian.....to support and assist His Majesty's Government to the best of his ability."[4] Mrs. Besant, thinking the moment opportune brought Mr. Tilak and Mr. Gokhale together and arranged a compromise between them. Article XX of the Congress was to be so amended as to enable the Extremists to become delegates to the Congress. Sir Pherozeshah Mehta was, however, opposed to the re-entry of Mr. Tilak and his followers in the Congress, as he was afraid that the Extremists would swamp the Moderates and capture the Congress. He, therefore, arranged to have the next session of the Congress at Bombay, where "his personality and his immense influence .....would carry everything before him."[5] He offered the Presidentship of the Session to Sir Satyendra Sinha—"whose political record was insignificant"—and forced him to accept it against his own judgment, and prevented the selection of Lala Lajpat Rai as President as desired by a large number of members.

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1. Writes the "Emigrant" in "Indian Emigration" :—"An analysis of prices of foodstuffs and the cost of living generally in India and the Colonies revealed the fact that the net earning of the Coolies in Fiji were no higher than those of a labourer in East Bengal," pp. 28-9.
2. Proceedings of the Imperial Legislative Council, Vol. LIV, p. 405.
3. *Ibid.*, p. 412.
4. Athalye : Lokamanya Tilak, p. 216.
5. Mody : Sir Pherozeshah Mehta, Vol. II, p. 658.

it was, therefore, understood that the Bombay Congress would refuse to amend Article XX and the Extremists would be forced to start their own separate organisation, if they so wished. But a few weeks before the Congress Session Sir Pherozeshah died. Mr. Gokhale had passed away a few months earlier. And it was possible for Mrs. Besant and her followers to carry very easily the agreed amendment to Article XX which enabled the Extremists to re-enter the Congress. They mustered strong at the next Congress Session at Lucknow in X-mas 1916, where Mr. Tilak received a rousing reception, a thundering ovation and a most enthusiastic welcome.

VII

Political agitation reached the highest point in India in the year 1917. Ground for it had been carefully prepared by Mrs. Besant and Mr. Tilak during the previous three or four years.

As stated at the beginning of this Chapter, the twin policy of repression and reform had deadened political life in the country. It began to revive gradually in the natural course of things ; but a great fillip was given to it by the happenings in South Africa under the inspiring leadership of Mr. Gandhi. The insults offered to Indians in South Africa and in other British Colonies awakened the people to their true position in the Empire. And the conviction leapt into their consciousness that not until they became masters in their own home they could expect to receive better treatment abroad—that self-government alone could raise theit status. This was pointed out in very clear words by Mr. Dadabhai Naoroji from the Presidential Chair of the Calcutta Congress in 1906 ; but Swaraj was then regarded, even by the Extremist leaders,[1] as a distant goal. The outbreak of the Great European War, however, changed the whole situation and what was looked upon as a far-off ideal became practical in the near future.

The War, although it did not originate the demand for Home Rule, gave to it a new significance and a new urgency, and, what is perhaps more important, an air of reality which it had never possessed before. The War taught to Indians anew the horrors and humiliations of subjection to foreign rule and the true meaning and value of self-rule and freedom. What would happen if Germans conquered England ? And the picture which the English statesmen usually painted in reply was so terrible that no sacrifice was considered too great to prevent such a calamity from occurring. Secondly, the English statesmen, in order to arouse sympathy and support for the Allied cause, characterised the War as "a war to make the world safe for democracy". Every nation, large or small, was henceforth to possess the right of self-determination ; and no nation, however small or weak it may be, was to be forced

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1. This was pointed out by Mrs. Besant in reply to Anglo-Indian criticism that Indian leaders were taking advantage of the War to push forward their demand for Home Rule ; and that the demand was altogether a new one. See pp. 52-66. Annie Besant : Th Future of Indian Politics.

to live under a form of government of which it did not approve. Indian leaders took these declarations at their face value and utilised them to push forward the cause of Indian self-government. An intensive propaganda for Home Rule was started by Mrs. Besant in the Madras Presidency and by Mr. Tilak in the Bombay Presidency and was carried on with great enthusiasm and consummate skill. Both these leaders were astute politicians—both of them were anxious to give all possible help for the prosecution of the War but both of them were of opinion that the War offered to India a God-sent opportunity to win freedom, and they must on no account allow it to be lost. Whenever they or their followers were invited to War Conferences they raised the question of self-government and equality of status, and linked it with the question of war-help.[1] But the other Indian leaders were men of greater faith—they believed in rendering service immediately and in waiting patiently for the reward! Some of them realised later that their confidence was misplaced but then unfortunately it was too late to change.

Mrs. Besant had joined the Congress early in 1914 in the hope of utilising its prestige and its organisation for achieving the goal[2] —Colonial Self-Government or Dominion Home Rule. But she soon came to the conclusion that the Moderate Congress was too cautious and too hidebound to undertake the task of educating and organising the masses. She, therefore, started two newspapers—*New India*, a daily, and the *Commonweal*, a weekly—and a new political organisation, which would work throughout the year among the people and canvass support for the demand for immediate Home Rule. But before starting the Home Rule League Mrs. Besant readily agreed to give the Congress a fair change to do the same work ; and, it was only after the stipulated period was over, that the Home Rule League was inaugurated in Madras in September 1916. Another Home Rule League had already been launched at Poona in April 1916 by Lokmanaya Tilak and was carrying on propaganda in Maharashtra with the help of the two papers, the daily *Kesar* and the weekly *Mahratta*. Ever since his release Mr. Tilak was busy reorganising and re-vitalising the Nationalist (Extremist) Party, which began to grow in strength and influence very rapidly under his inspiring and able leadership. The two Leagues—the Poona and the Madras Home Rule Leagues—co-operated together and pushed forward vigorously the propaganda for Home Rule in the country. In December 1916 the Indian

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1. Mr. Tilak and his associates were of opinion that it was not right to ask the people to fight, if they were to be treated as mere hewers of wood and drawers of water. Indians must be given an equal position (to the British) in the Army, Defence Force and the Reserves. They must be entitled to King's Commissions and other high positions and they must be given a definite and clear assurance that they would return to a free country at the end of the War.

2. She had approached Sir Pherozeshah and other Congress leaders and had asked them to adopt her whole programme of religious, social, educational and political regeneration but they refused to touch religious and social questions.

National Congress and the All-India Muslim League adopted a common scheme of reforms and the Congress decided to utilise the Home Rule Leagues to popularise the scheme among the people. After the Lucknow Congress of 1916, both Mr. Tilak and Mrs. Besant took up the work of national awakening and political education in right earnest and vigorously pushed on propaganda in support of the Congress-League Scheme.

The Home Rule campaigns in Bombay and Madras alarmed the Governments of the two Presidencies and they tried to suppress the new movement indirectly by placing restrictions on the liberties of its two leaders. In May 1916 proceedings were started against Mr. Tilak for delivering certain speeches at Home Rule meetings. He was ordered to furnish a personal bond of Rs. 20,000, with two sureties of Rs. 10,000 each, to be of good behaviour for a period of one year. The order of the Magistrate was, however, cancelled later (November 9, 1916) on an appeal to the Bombay High Court. About the same time, *i.e.*, May 26, 1916, security of Rs. 2,000 was demanded from *New India*, which was forfeited on August 28. A new security of Rs. 10,000 was demanded and immediately paid. Mrs. Besant appealed to the Madras High Court against the order of confiscation and later to the Privy Council but without success.

The efforts of the Government to restrict the political activities of Mr. Tilak and Mrs. Besant had just the opposite effect. In 1917 they threw themselves heart and soul into the work of national propaganda and the agitation for Home Rule reached an unprecedented height. The publication of the unsatisfactory report of the Public Services Commission[1] early in 1917 accentuated the feelings of discontent and strengthened the demand for Home Rule. The Government felt it necessary to adopt a policy of active discouragement and mild repression. A circular was issued prohibiting school and college students from attending Home Rule meetings. The Provincial Governors delivered speeches to discourage the propaganda for Home Rule and to warn the leaders of the movement. The Government of Madras went further and issued orders of internment against Mrs. Besant and her two associates. Nationalist leaders suspected it also of helping the Non-Brahmins to start an anti-Home Rule campaign and of encouraging them in fanning the flame of communalism in the Presidency. Be that as it may, the internment of Mrs. Besant and Messrs. B. P. Wadia and G. S. Arundale created a storm of opposition and indignation from one end of the country to another. Protest meetings were held all over India and the nationalist leaders, who had refrained from joining till then, enlisted themselves as members of the Home Rule Leagues in a body and accepted responsible offices in the Leagues. The All-India Congress Committee at its meeting in July expressed its sense of appreciation of the work done by the Home Rule Leagues and strong condemnation of the action taken by the Government against Mrs. Besant and her associates. Under the

1. See Section VII of Chapter 17, *Supra*.

inspiration of Mr. Tilak it made a strong and dignified representation to the Viceroy and the Secretary of State condemning the repressive and reactionary policy adopted by the Governments in India and asking for the immediate grant of a substantial instalment of *Swaraj*. The Committee asked for a Royal Proclamation announcing the acceptance of Indian political demands and the release of the interned leaders—Mrs. Besant and her two associates and the Ali Brothers. The Committee warned the Government that unless these steps were taken at the earliest opportunity discontent and unrest in India would continue to grow. Mrs. Besant was elected President of the 1917 Session of the Congress ; and it was decided to continue efforts for the release of Mrs. Besant and her associates.

Political agitation in India reached the highest point in July and August 1917. In July 1917 was also published the Report of the Messopotamian Commission which created a great stir both in England and in India and resulted in supporting and strengthening the demand for political reforms in India. The Commission had condemned the conduct of the Messopotamian campaign as carried on by the Government of Lord Hardinge and by Mr. Chamberlain, the Secretary of State for India and although Lord Hardinge was able to shift a great part of the blame on the British War Office through his speech in the House of Lords, the existing system of Government in India was strongly condemned by Mr. Montagu, an ex-Under-Secretary of State for India, in his famous speech on the Messopotamian Commission Report, on July 12th, 1917, in the House of Commons. Mr. Montagu drew up a scathing indictment of the whole system of Indian governance. He described the Government of India as "too wooden, too iron, too inelastic, too antidiluvian, to be of any use for the modern purposes we have in view"[1] ; and he advocated greater independence of action for the Viceroy, transfer of partial control to the legislatures in India, the removal of the burden of the cost of the India Office from the shoulders of the Indian taxpayers, imposition of real responsibility on the Secretary of State by the House of Commons by reducing the powers of the India Council and the reform of the machinery of the India Office, which he condemned in the following words :—"I tell this House that the statutory organisation of the India Office produces an apotheosis of circumlocution and red-tape beyond the dreams of any ordinary citizen."[2] Mr. Montagu supported the Indian demand for an immediate declaration of British policy and for making substantial changes in the system of British Government in India. Even the plea of "efficiency" could not be advanced any longer as the Messopotamian Muddle "has proved" that the Government of India is "not efficient".[3] "If you want to use loyalty [of the Indian people] you must give them that higher opportunity of controlling their own destinies, not merely by Councils which

1. The Indian Annual Register, 1919, p. IX.
2. *Ibid.*, p. XI.
3. *Ibid.*, p. XII.

cannot act, but by control, by growing control of the Executive itself"[1], he quietly told the House of Commons ; and he ended by saying :—"Unless you are prepared to remodel, in the light of modern experience, this century-old and cumbrous machine, then I believe, I verily believe, that you will lose your right to control the destinies of the Indian Empire."[2]

The Indian Nationalist press utilised Mr. Montagu's speech for purposes of propaganda. It was praised and quoted extensively. It was used as a text to preach the necessity of immediate change in the government of the country. And the agitation for Home Rule and for the release of interned leaders was pushed forward with greater vigour and fervour.

In the meantime the war situation in Europe had become very grave and England was anxious to secure more help from India. The people in India were ready to help but they wanted better treatment and a definite promise of *Swaraj* in the near future Mr. Lloyd George realised the needs of the situation and appointed Mr. Montagu as Secretary of State for India in place of Mr. Chamberlain, who had resigned in view of the criticisms made by the Messopotamian Commission Report. The British Cabinet set to work in drafting a new declaration of policy for India in spite of other engrossing pre-occupations—and started correspondence with the Government of India to arrange for the release of Mrs. Besant and her associates. The Government announced the removal of the bar excluding Indians from the Commissioned ranks in the Army and offered 9 King's Commissions to persons who had already rendered conspicuous war services. On August 20, 1917, in reply to a question from Mr. Charles Roberts, Mr. Montagu made the historic declaration in the House of Commons :—"The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire.....I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be the judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility."[3]

The Secretary of State announced at the same time the decision of His Majesty's Government to send him to India almost

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1. *Ibid.*, p. XIII.
2. *Ibid.*, p. XIV.
3. Report on Indian Constitutional Reforms, 1918, p. 1.

immediately for purposes of consultation and enquiry.

The announcement of August 20, 1917, created once again a division in the ranks of Indian Nationalism. The Moderates "welcomed the declaration as the 'Magna Carta of India' and while asking for the release of the internees as an earnest of the intentions of Government, desired to concentrate all their energies on an educative campaign in preparation for the coming visit of the Secretary of State".[1] The extremists, on the other hand, regarded the announcement as unsatisfactory both in language and substance and decided to continue agitation both for the release of the internees and for the better recognition of Indian claims and aspirations.

The agitation for the release of the internees was partially[2] successful. On September 5th, 1917, the Government of India announced its readiness to recommend the release of Mrs. Besant and her associates to the Madras Government provided "it was satisfied that these persons would abstain from violent and unconstitutional methods of political agitation during the remainder of the period of the War."[3] The assurance was readily given and Mrs. Besant and Messrs. Arundale and Wadia were released in the hope of creating a calm atmosphere for the approaching visit of the Secretary of State for India.

The Home Rule Leagues continued their work of propaganda and political education in India and also decided to extend their activities to England. Both Mr. Tilak and Mrs. Besant were alive to the necessity of educating public opinion in England at this juncture and they pressed upon the older Congressmen the desirability of sending a deputation to England for the purpose. At the Lucknow Congress in 1916 it was decided to send a deputation but the idea was dropped later on the advice of Sir William Wedderburn. In the meantime anti-Indian propaganda was started in England in an organised fashion by the retired Anglo-Indians and other reactionaries. With Lord Sydenham at their head they founded the Indo-British Association to create opposition in England to the policy of reform. Mr. Tilak sent Mr. Baptista to England to establish contact with the Labour Party and to watch the situation on the spot. He himself undertook an arduous tour in Maharashtra to collect money for sending a Home Rule Deputation to England in collaboration with Mrs. Besant. The two Home Rule Leagues decided to send their deputations to England in the spring of 1918 and the Government of India issued the necessary passports. The first deputation left in the middle of March and the second was about to embark from Colombo when the passports were cancelled under instructions from the British War Cabinet. The Home

1. India in 1917-18, p. 37.

2. The Ali Brothers were not released as they refused to give the assurance required from them by the Government.

3. India in 1917-18, p. 41.

Rule Leagues were thus prevented from placing their views before the British public and they were denied the opportunity of counteracting the nefarious propaganda of the Indo British Association.

On November 10, 1917, the Montagu Mission arrived in India and began its work of consultation and enquiry as a result of which a joint scheme of reforms was put forward by the Secretary of State and the Viceroy, which was approved by the other members of the Mission—Lord Donoughmore, Sir William Duke, Mr. (later Sir) Bhupendranath Basu and Mr. Charles Roberts—and which was ultimately embodied in the Government of India Act, 1919.

20

THE MONTFORD REFORMS

I

The object of the Morley-Minto Reforms was not to introduce the parliamentary system of government in India, as was made clear by Lord Morley himself in his speech in the House of Lords. It was, on the other hand, "to create a constitution about which conservative opinion would crystallise and offer substantial opposition to any further change,"[1] as stated by the joint authors of the 1919 Reforms. Both Lords Morley and Minto desired to associate only such Indians with the administration of the country who would "oppose any further shifting of the balance of power and any attempt to democratise Indian institutions."[1] However, it is true that the Moderates in India had entertained high hopes and had believed that Lord Morley's disclaimer was meant to disallay opposition in the House of Lords and that the Reforms would result in "modifying the bureaucratic character of the Government and in offering the elected representatives responsible association with the administration."[2] Mr. Gokhale had hoped that "over finance, for the control of Government of India, would be largely substituted the control of discussion and criticism in the Councils;"[2] "that racial considerations would recede into the background, and that the Indian view of questions would be effectively presented in the highest Councils"[3]; and that no legislation in the provinces would be enacted which the non-official majorities did not desire, "and that the elected members would have all the opportunity that they needed of influencing the course of provincial business."[3] But a few months' working of the Act changed Mr. Gokhale's views. In August 1910, he complained of non-official helplessness from his seat in the Imperial Legislative Council :—"Now, my Lord, we well know that once the Government had made up their mind to adopt a particular course, nothing that the non-official members may say in the Council is practically of any avail in bringing about a change in that course."[4] The position

1. Report on Indian Constitutional Reforms, 1918, p. 48.
2. *Ibid.*, p. 64.
3. *Ibid.*, p. 65.
4. Proceedings of the Imperial Legislative Council, Vol. XLIX, p. 29.

was not very much better in the case of the provincial councils, as the element was not in an effective majority anywhere and also because the final authority in almost all cases rested with the Imperial Government.

The Morley-Minto Reforms thus failed to satisfy even the most moderate politician in India. There were several causes of this failure. The first and perhaps the most important cause was the existence of the solid official phalanx in the Imperial Legislative Council. There was no getting away from it and no way of getting round it or dividing it. Like the Chinese Wall it acted as a permanent barrier between the Government and the non-official Indians, embittering their relationship and causing endless irritation and annoyance. The debates in the Council, except on special occasions, became lifeless and uninteresting, robbed in fact of all reality and sense of responsibility. In the minds of the officials the conflict between conscience and discipline became sometimes very acute; and, in the minds of the non-officials, feelings of helplessness and disappointment became most keen, and forced the Moderates to join hands with the Extremists. It divided all issues on racial lines and tended to make racial differences very prominent. As pointed out by Mr. Curtis :—"The whole effect of this system strikes one as singularly calculated to produce a cleavage on racial lines and to exasperate racial feelings."[1]

This was the case not only in the Imperial Legislative Council, where the official members were in a majority, but also in the Provincial Councils, where the non-official members—and in the case of Bengal, elected members—were in a majority. In the first instance, the non-official majority was more nominal than real. As pointed out by the Montford Report, "the fact that absentees were more numerous among the non-officials than among the official members tends to impair the effectiveness of the non-official majority."[2] Secondly, the nominated and European members considered it almost an obligation to vote ordinarily with the official rather than the elected members. And, thirdly, the officials were not only required to act together but also to defend the decision of the Central Government although they may be opposed to the views of the Provincial Government, which may have liked sometimes to placate the non-official majority. The theory, as propounded by the Secretary of State, was that "there is for India one system of administration and one alone.....It was, therefore,.....the duty of the local government in dealing with the resolution to uphold with all their authority the decision of the Government of India."[3]

It must not, however, be understood that the non-official members were altogether without any influence on the course of

1. Curtis : Dyarchy, p. 372.
2. Report on Indian Constitutional Reforms, 1918, p. 62.
3. *Ibid.*, p. 58.

legislation or administration. They were often consulted before Bills were finally drafted or administrative decisions made. Even after ordinary measures had been introduced in the Councils, the non-official members were able to secure important modifications. This was so in the case of the Indian Court Fees (Amendment) Bill (1910), the Indian Factories Bill (1911), the Indian Patents and Designs Bill (1911), the Criminal Tribes Bill (1911), the Life Assurance Companies Bill (1912), the Indian Companies Bill (1912), and the Indian (Bogus Degrees) Medical Bill (1916). But it must be remembered that modifications were secured by Indian members only in the case of those Bills which were not regarded as vital by the Government, or, as the Montford Report puts it, which did not touch "the peace and security of the country."[1] The Government was also influenced to some extent by non-official opinion in administrative matters. "Among the measures the decisions on which have been influenced by Council resolutions were the abolition of the system of indentured labour in certain colonies, the establishment of an Executive Council in the United Provinces, the establishment of a High Court in the Punjab, the appointment of a committee to inquire into and report on jail administration, and the appointment of the Public Services and the Industrial Commissions."[2] To give the correct perspective it must however be mentioned that out of the 168 resolutions moved in the Imperial Legislative Council up to the end of 1917 only 24 were accepted by the Government, 68 were withdrawn, and 76 were rejected.[2]

The second cause of the failure of the Morley-Minto Reforms was the non-relaxation of control over the provincial governments and the niggardly policy followed in connection with the admission of Indians into the public services. "There was no general advance in local bodies; no real setting free of provincial finance; and in spite of some progress no widespread admission of Indians in greater numbers into the public service."[2] The Government of India was still responsible to the British Parliament and could not relax its control over provincial administration and legislation. "The sphere in which the councils could affect the Government's action, both in respect of finance and administration, was therefore closely circumscribed. Again and again a local government could only meet a resolution by saying that the matter was really out of its hands. It could not find the money because of the provincial settlements; it was not administratively free to act because the Government of India were seized of the question; it could therefore only lay the views of the council before the Government of India."[3]

Thirdly, the system of elections that was set up under the scheme was hopelessly inadequate, unfair in its treatment of the various communities and wrong in principle. While separate com-

1. Report on Indian Constitutional Reforms, 1918, p. 60.
2. *Ibid.*, p. 61.
3. *Ibid.*, p. 65.

munal electorates were created for the Muslims and special representation was given to particular interests, like the landlords, no direct representation was accorded to the general public in the legislatures. As a matter of fact, the system of general representation was so narrow and indirect—it has been called "doubly" indirect by the authors of the Montford Report—that it could afford no political education to the people or to give them any training in creating a sense of responsibility. To mention concrete instances —the average number of voters in the general constituencies for the Imperial Legislative Council was only 21, while, in one case, the actual number was 9. "The total number of votes, by which all the elected members of this council are returned, can scarcely exceed 4,000. That gives less than an average of 150 for each member. Similarly, members of the Legislative Council of the United Provinces are elected by about 3,000 votes, or an average of about 143 for each elected member."[1] The representatives of the general public were elected to the Provincial Councils by the non-official members of the local boards and to the Imperial Council by the non-official members of the Provincial Councils. The result was that there was "absolutely no connection between the supposed primary voter and the man who sits as his representative on the Legislative Council, and the vote of the supposed primary voter has no effect upon the proceedings of the Legislative Council."[2] Such was the system of elections instituted under the Indian Councils Act, 1909. Writes Mr. Curtis, "the so-called representative system is a sham".[3]

With such fundamental defects it was not possible to postpone indefinitely the question of further political reforms; and in spite of its pre-occupation with the Great War the Government was forced to turn its attention towards it. Lord Willingdon, who was then Governor of Bombay, asked Mr. Gokhale to prepare a scheme of reforms which he completed shortly before his death in March 1915. The Scheme which came to be known as "Gokhale's Political Testament"[4] was still-born. It was already out of date when it was published in August 1917. Mr. Gokhale's chief objective was provincial autonomy in the narrow sense of the term—in the sense of freedom from control from above. It did not deal with the problem of introducing responsibility—that, indeed was also the chief defect of the "Memorandum of the Nineteen".[5] Indian Members of the Imperial Legislative Council as well as of the more elaborate joint scheme of reforms formulated in 1916 by the Congress and the League, popularly known as the Congress-League Scheme.[6] The first scheme of reforms which tackled the Indian problem from the

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1. Curtis : Dyarchy, p. 368
2. Report on Indian Constitutional Reforms, 1918, p. 54.
3. Curtis : Dyarchy, p. 368.
4. The Scheme is printed in Keith : Speeches and Documents on Indian Policy, Vol. II, pp. 111-16.
5. See the Memorandum of the Nineteen, *Ibid.*, pp. 116-24.
6. See the Congress-League Scheme, *Ibid.*, pp. 124-32.

point of view of introducing responsible government in parts was that prepared by the English Round Table Group, under the leadership of Mr. Lionel Curtis, called Dyarchy.[1] This formed the basis of the scheme put forward by Mr. Montagu and Lord Chelmsford in their Report on Indian Constitutional Reforms, 1918.

It was pointed out by Mr. Curtis in a series of open letters addressed to the Indian people that there was an important difference between "Self-Government" and "Responsible Government". That was no doubt true. Self-Government could have been granted to India almost at once. The number of educated Indians was sufficient to run the machinery of the government. But to train the illiterate, rural people for responsible government, especially when they were divided by language, religion and distance, was no small task and could not be accomplished quickly. This was realised by clever men like Lord Curzon, who, it was openly acknowledged after the Reforms of 1918 had come into force, had a great hand in the drafting of the famous declaration of August 20, 1917. As a matter of fact, the real reason for the rejection of the Congress-League Scheme was that it had asked for the transfer of too much power to Indian hands.

The Congress-League Scheme proposed to enlarge the Councils both in the Provinces and at the Centre. It restricted the nominated element to less than 1/5th and fixed definite proportion of seats for the Muslims on the basis of separate electorates—in accordance with the pact entered into between the Congress and the League. It conceded full legislative and financial control to the Provincial Legislatures and also the right to direct the provincial Executive governments by means of binding resolutions and similar power in the Central Government subject to reservations in regard to defence, political and foreign affairs. It remodelled the provincial and central executive governments which were to have non-civilian heads and half the members were to be Indians elected by the elected members of the legislatures. Civilians were ordinarily not to be appointed as members of the Executive Councils. It was no wonder that a scheme of reforms which proposed to transfer such extensive authority to Indians and to deprive so many prized posts to members of the Public Services was opposed by the Bureaucracy in India and was vehemently criticised[2] and rejected by the joint authors of the 1918 Reforms.

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1. See papers connected with the Scheme of Dyarchy in Curtis : Dyarchy.

2. The criticisms made by the joint authors may be summarised as follows :—(1) The constitution of executive governments was unsatisfactory because it excluded civilians who possessed knowledge and experience of government, deprived the heads of all discretion in the selection of Indian members, and associated persons who derived authority from different sources —the Legislature in the case of Indian members and the Secretary of State in the case of European members. (2) The position assigned to the executive was fraught with grave dangers—the executive was appointed for a fixed term of five years while the Legislature was vested with full control which must

III

The scheme of reforms which formed the basis of the Joint Report of the Secretary of State and the Viceroy was first formulated by Sir William Duke as a member of the English Round Table Group, with Mr. Curtis as its leader. Sir William Duke was then a member of the India Council and was an ex-Lieutenant Governor of Bengal and later became a member of the Montagu Mission to India. Sir William began with three assumptions :—(1) That the time had come to initiate Indians in the art of "responsible" government as distinguished from mere "self" government by transferring certain safe subjects to popular control; (2) "that there are certain departments of government (*e. g.*, the Police) the integrity and efficiency of which are so vital to the British connection, that in the existing conditions they could not be submitted to popular control"[1], and (3) that in each province there are considerable areas inhabited by primitive tribes which must continue to be governed autocratically. Given these assumptions it is clear that there is no alternative to Dyarchy—dividing the administration of a province into two parts, one part responsible to the people and the other to the Secretary of State and the British Parliament as before. In the Duke Memorandum the Government of Bengal was divided into two parts—Reserved Departments, under the Governor-in-Council and the Transferred Departments under a Cabinet of three to five members, with the Governor as President. The departments which were to be transferred immediately were Education, Local Self-Government and Sanitation; but to them were to be added "at an early or comparatively early stage" five more departments—Registration, Co-operative Credit, Agriculture, Forests and Public Works. No special or separate provision was to be made for financing the administration of the transferred departments but it was suggested that the greatest reliance was to be placed on the income from excise and on levying fresh taxes.

The Duke Memorandum was ready in the beginning of 1916, shortly after the arrival in India of Lord Chelmsford as the Viceroy. A copy was sent to the Viceroy in May 1916. And in October 1916 came Mr. Curtis, the leader of the English Round Table Group to India to propagate the basic ideas of the Duke Scheme. The Scheme, with certain modifications, was presented in the form of a "Joint Address" to the Secretary of State and the Viceroy in November 1917—although both had copies of it, long before. The Joint Address was signed by sixty-four Europeans and ninety Indians and was severely criticised both in the European

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result in complete deadlocks. (3) The safeguard of the Veto was regarded as purely illusory. (4) The Scheme did not provide for political education—It "makes no provision for.....the training of the people in the exercise of electoral responsibility" And (5) "the project would soon prove unworkable in practice." Report on Indian Constitutional Reforms, 1918, pp. 104-13.

1. Curtis : Dyarchy, p. 18. The Duke Memorandum was first publish in India in 1920 in "Dyarchy" by Lionel Curtis.

and in the Indian Press in the country when it was published in November 1917.

IV

Mr. Montagu, with the members of his mission, landed in Bombay on November 10th, 1917, ostensibly with the object of making an enquiry into the political conditions in India, to hear the views of the people and of high government officials, and to formulate his proposals in conjunction with the Viceroy. It, however, appears that the real purposes of the Indian visit of the Secretary of State were different. Before Mr. Montagu had landed in India he knew both the Congress-League Scheme and the Duke Memorandum and had formulated his own scheme, at any rate, in broad outline. His real objects in coming to India were two. The first was, to use his own words, to work in such a way as "to let the whole thing (*i. e.*, the scheme of reforms) come from the Indian Government themselves."[1] In this he was largely unsuccessful. He found it very difficult to carry the Viceroy's Executive Council, the Heads of Provincial Governments, particularly Sir Michael O'Dwyer of the Punjab and Lord Pentland of Madras and the European members of the services with him. He had to make large concessions to the recalcitrant elements. To the services he had to promise large increments in their emoluments, opportunities of rising to high positions, like the new Governorships, and to give them protection over the heads of their new chiefs, the ministers. The Government of India was appeased by imposing limitations on provincial autonomy and by whittling down responsibility to the peoples of the provinces. Thus the scheme as it finally emerged possessed none of that grandeur which Mr. Montagu had intended it to possess. In his first letter from India to the British Prime Minister he had written :—"My visit to India means that we are going to do something and something big. I cannot go home and produce a little thing or nothing : it must be epoch-making or it is a failure ; it must be the keystone of the future history of India..."[2] "I would if I could make it clear to those at home that if the results of our deliberations are either something which India will not accept, or a niggling, miserly, grudging safeguard, fiddling with the existing order of things, we shall have defrauded and defrauded irreparably—for they will never believe us again—a vast continent whose history is our glory....."[3]

Very different was the language which the Secretary of State used in informing Mr. Lloyd George of the completion of the Report. "I can, at least, say that it ought not to be disregarded, and it has a principle.....There is much room for improvement in the workmanship and the proposals, but the report certainly cannot be

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1. Montagu : An Indian Diary, p. 1.
2. *Ibid.*, p. 8.
3. *Ibid.*, pp. 10-11.

disregarded. It will be, however, completely out of date unless we proceed with the schemes quickly."[1] It took the British Government one and a half years to pass the necessary legislation and another one year to put the reforms into operation. It was only in February 1921 that the Indian Legislative Assembly was formally opened by the Duke of Connaught ; and by that time the non-co-operation movement was in full swing in the country. Like the Morley-Minto Reforms the Montford Reforms too were already out-of-date when they came into force.

Mr. Montagu was, however, more successful in his second and immediate objective. The situation in India had become very grave in the middle of 1917. At the same time the war situation in Europe had reached a most critical state. In the opinion of the British Government it was imperative that the trouble in India should not develop and that India should be induced to give more help in the prosecution of the War. The announcement of August 20, 1917 and the visit of Mr. Montagu succeeded in diverting the attention of the people from agitation to personal pressure upon the Secretary of State and his associates. Writing on February 28, 1918, Mr. Montagu claimed that even if he failed to evolve an agreed scheme he had done something for which the Cabinet at Home ought to be grateful to him :—"I have kept India quiet for six months at a critical period of the War ; I have set the politicians thinking of nothing else but my mission."[2] He had done more. He had rallied round him a batch of Indian leaders who believed in the sincerity of his purpose and who were willing to lend him their full support. Mr. Montagu was convinced that it was essential to get "a nucleus of people who will support us.....otherwise I do not see how I can assure the Cabinet that our scheme will be worked by any section in India."[3]. In his scheme of December 12, 1917[4], he included the following as a separate item :—"A new organisation of Indians to be collected, assisted in every possible way by the Government, for propaganda on behalf of our proposals, and to send a delegation to England to assist us."[5] He talked to Mr. (later Sir) Bhupendranath Basu and Sir (later Lord) Satyendra Sinha on the matter :—"We talked about the formation of a moderate party ; they were very enthusiastic : and talked about editing newspapers, and so forth, I think they mean business."[6] They did. Within a few months, the Moderate Party came into existence with a separate organisation and separate provincial and all-India conferences.

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1. Montagu : An Indian Diary, p. 362.
2. *Ibid.*, p. 288.
3. *Ibid.*, p. 134.
4. *Ibid.*, pp. 102-4.
5. *Ibid.*, p. 104.
6. *Ibid.*, p. 217.

V

The Report on Indian Constitutional Reforms was published on July 8, 1918. But to complete the work three committees were appointed—the Franchise Committee, under the presidentship of Lord Southborough ; the Functions Committee under the chairmanship of Mr. Richard Feetham ; and the Committee on Home Administration, under the chairmanship of the Marquess of Crewe—which issued their reports before the middle of June 1919. On the basis of these reports the Government of India Bill, 1919 was drafted. On June 5, 1919, Mr. Montagu moved "that the Bill be now read a second time". After the Second Reading was over the two Houses agreed to refer the Bill to a Joint Select Committee, with Lord Selborne as Chairman, and consisting of seven members of the House of Commons and seven members of the House of Lords. The Joint Select Committee examined a number of witnesses, both official and non-official, English and Indian. It drew up a valuable report, which was accepted by the House of Commons and the Bill was amended accordingly. It was passed by the House of Commons on 5th December and by the House of Lords on 18th December and received the royal assent on 23th December, 1919. But before it could come into force it had to be supplemented by Rules. It was also necessary to appoint another Committee to advise the Government on the question of financial adjustments between the Government of India and the Provincial Governments. The Financial Relations Committee was presided over by Lord Meston and submitted its report on March 31st, 1920. The Government of India published the Rules framed under the Act on July 20, 1920. Elections to the reformed legislatures were held in November and the Reforms were introduced in India on January 1st, 1921.

VI

The Reforms of 1919 will remain famous in British Indian history for making a beginning in responsible government, for associating the Princes with the administration of India especially in matters affecting the Indian States, and for introducing the dyarchical form of government.

The Montford Report had laid down four broad principles to give effect to the policy announced on August 20, 1917. The first of these was :—

"There should be, as far as possible, complete popular control in local bodies and largest possible independence for them of outside control."[1]

The Government of India had already defined its policy on this subject in its Resolution of May 1918[2] but it was left to the

1. Report on Indian Constitutional Reforms, 1918, p. 123.
2. See Chapter 17.

new Provincial Government to give effect to this policy according to the varying needs of each province.

The second formula laid down by the Montford Report enunciated two principles—devolution of authority to provincial governments and the introduction of partial responsibility in the provinces by dividing the provincial governments into two parts, one responsible to the Secretary of State and the other to the voters in the provinces—*i.e.*, through the establishment of Dyarchy in the provinces. This was the way in which the Montford Reforms proposed to give effect to the policy enunciated by the Declaration of August 20, 1917. The Preamble of the Government of India Act stated this policy in clear words and also rejected the demand of advanced nationalists in India for "self-determination" and asserted the doctrine of full parliamentary sovereignty and responsibility. It laid down :—"And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian people."

VII

The central proposal [of the Montford Reforms then was an important beginning in provincial autonomy, in both senses of the term, *i.e.*, in the sense of freedom from control from above and also in the sense of transfer of power to the people.

The subjects of administration and sources of income were divided into two classes—Central and Provincial. Among the central subjects the most important were :—Naval, Military and Aerial matters (*i.e.*, Defence, other than Police) : Foreign Relations and Relations with the Native States ; Railways (with certain exceptions) Communications of military importance and Posts and Telegraphs, Currency and Coinage, Public Debt, Sources of Imperial Revenue ; Civil and Criminal Law and Procedure ; Ecclesiastical Administration and All-India Services ; Central Institutions of Scientific and Industrial Research ; and all matters not specifically declared to be provincial subjects. In the list of provincial subjects the most important items were :—Local Self-Government ; Education (with certain exceptions) ; Medical Administration, Sanitation and Public Health ; Public Works such as Roads, Buildings and Light Railways ; Agriculture ; Development of Industries ; Excise ; Civil Veterinary Department, Fisheries and Co-operative Societies ; Famine Relief ; Land Revenue Administration ; Irrigation ; Forests ; Administration of Justice, Police, Prisons ; Inspection of Factories and Labour Questions ; Provincial Borrowing and Agency Functions.

This division of functions was, however, not so definite or rigid as in a federation. In the first instance, if any doubt arose as to whether a particular matter was central or provincial, the question was to be decided by the Governor-General in Council,

whose decision was to be final. Secondly, the Government of India could declare any matter, though falling within a central subject to be more of a local importance, and declare it provincial. Lastly, certain provincial subjects were made "subject to Indian Legislation" and previous permission of the Governor-General in Council was necessary if the provincial legislature proposed to legislate on such subjects.

Similarly the sources of revenue were divided into two classes and the system of "divided heads" was abolished but to meet the deficit of the Central Government a system of provincial contributions was laid down, which, however, was to cease as soon as the Government of India was able to develop its resources to meet its entire expenditure.

The division of sources of revenue was carried out in accordance with the recommendations of the Meston Committee. Land Revenue and income from Excise (spirits and drugs), Irrigation, Forests, Stamps and Registration Fees were assigned to the provinces, while Customs, Income-Tax, Railways, Post and Telegraphs, Salt and Opium were made Imperial sources. Other sources were also similarly divided between the Central and Provincial Governments. However, to meet the objection of Bombay and Bengal partially, provision was made to give to the provinces 25 per cent of the increment in the provincial collections under Income-Tax, so far as the increase was due to a growth in the amount of income assessed.

It was estimated by the Meston Committee that on the basis of the new division of sources there would be a deficit of Rs. 983·06 lakhs in the budget of the Central Government in 1921-22. On the other hand, the Committee estimated that there would be a net increase of Rs. 18·50 lakhs in the total income of the provinces. The Committee, therefore, made "the increased spending power" of each province as the basis for fixing its initial contribution to meet the central deficit. It was recognised that this was not really an equitable basis and that the ideal basis was the "capacity to pay". It was, therefore, proposed that the actual contribution should reach the ideal contributions in the course of seven years. In the meantime the Government of India was to arrange its finances in such a way as to be able to dispense with provincial contributions altogether as early as possible. The contributions, initial and standard, as fixed by the Government of India were as follows :—

Province	*Increased spending power in lakhs*	*Initial Contribution to be paid in 1921-22 in lakhs*	*Percentage of Initial Contribution to the total*	*Standard percentage fixed by Govt. of India*
Madras	5,76	3,48	35½	17/90
Bombay	93	56	5½	13/90
Bengal	1,04	63	6½	19/90
United Provinces	3,97	2,40	24½	18/90
Punjab	2,89	1,75	18	9/90
Burma	2,46	64	6½	6½/90
Bihar and Orissa	51	Nil	Nil	Nil
Central Provinces	52	22	2	5/90
Assam	42	15	1½	2½/90
Total	18,50	9,83	100	90

A uniform system of government was introduced in the 8 major provinces of India named in the above table. Burma was excluded for the time being. However, the same system was extended to Burma in 1922 and to the North-Western Frontier Province in 1931. They were called the "Governors' Provinces".

The system of government which the Montford Reforms introduced in each Governor's Province came to be known as Dyarchy. The Provincial subjects were divided into two classes—the "Reserved" and the "Transferred". Among the transferred subjects were included Local Self-Government; Education; Medical Administration, Sanitation and Public Health; Public Works; Agriculture; Development of Industries; Excise; and Civil Veterinary Department, Fisheries and Co-operative Societies. In the list of reserved subjects were included Finance; Land Revenue; Famine Relief; Justice, Police, Prisons, Reformatories and Criminal Tribes; Control of Newspapers, Printing Presses and Books; Irrigation

and Waterways; Inspection of Factories, Mines, Electricity, Gas, Boilers, Motor Vehicles, Labour Welfare and Industrial Disputes; Excluded Areas and Public Services; and Agency Functions. The responsibility for the proper administration of the "reserved" subjects was retained by the Act of 1919 with the people of England through the Secretary of State and the British Parliament; while the responsibility for the good government of the "transferred" subjects was handed over to the voters in the provinces through the provincial legislative councils. Under these circumstances it was not possible to free the Provincial Governments from the control from above altogether—it was only in the case of the "transferred" subjects that there was any real relaxation of control by the Secretary of State and the Government of India.

The Joint Select Committee had laid down that "no statutory divestment of control" was "either necessary or desirable" so far as the administration of reserved subjects was concerned. It, however, suggested the growth of a convention to the effect that "where the provincial government and the legislature are in agreement, their views should ordinarily be allowed to prevail"[1] and that the Government of India and the Secretary of State should refrain from interfering in such cases except perhaps to safeguard the interests of the central subjects. In the case of the transferred subjects the Joint Select Committee had recommended that the control from above "should be restricted in future within the narrowest possible limits."[1] Statutory rules were framed for the purpose according to which the powers of superintendence, direction and control vested in the Governor-General in Council were to be exercised only for the following purposes:—

(1) To safeguard the administration of central subjects;

(2) to decide questions arising between two provinces, in cases where the provinces concerned failed to arrive at an agreement; and

(3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on the Governor-General in Council under, or in connection with, or for the purposes of, the following provisions of the Act, namely S. 29 A, S. 39 (IA), Part VII A, or of any rules made by, or with the sanction of the Secretary of State."[2]

The Secretary of State for India could exercise his powers of superintendence, direction and control in addition to the three cases already stated in the two following cases as well:—

(4) "to safeguard imperial interests"; and

(5) "to determine the position of the Government of India

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1. Mukherjee: The Indian Constitution, Part II, p. 524.

2. Sapru: The Indian Constitution, pp. 21-22. The Sections of the Act referred to in the Rule (Rule 49 of the Devolution Rules) relate to the fulfilling of contracts, particularly in relation to appointments and provincial loans raised through the High Commissioner, etc.

in respect of questions arising between India and other parts of the Empire."[1]

The Devolution Rules thus limited the control of the Government of India and the Secretary of State over the transferred subjects to a few specified cases. However, in actual practice, the control or influence of the Secretary of State extended through the Public Services and the Finance Department to the whole transferred sphere. The members of the All-India Services who actually ran the transferred departments were not under the control of ministers. They had direct access to the Governor and their interests were protected by the Secretary of State. The control of the Finance Department, which was a reserved subject, over the transferred sphere was very great in practice. Thus the Government of India and the Secretary of State could exercise indirectly a great deal of influence over the whole transferred sphere.

Returning to the subject of relaxation of control over the Provincial Governments it should be pointed out that the Devolution Rules provided for financial and legislative devolution as well. To begin with the relaxation of financial control :—The provinces were given the power to frame their budgets subject to the provision of supplying information on certain points to the Government of India. As already stated the provinces were assigned separate sources of revenue ; they were also given the power of levying fresh taxes—without previous permission in the case of new taxes detailed in schedule I. For other new taxes permission of the Government of India was still considered necessary. The provincial governments were also permitted to raise loans in the open market on the security of provincial revenues for capital expenditure on works of lasting public utility, for irrigation works, for famine relief, etc. But for each loan—with the amount definitely fixed, the rate at which the loan was to be issued, and the arrangements proposed for its repayment—sanction of the Government of India was required. No rules were laid down for the relaxation of control over the expenditure of the reserved departments but in the case of the expenditure on the transferred departments statutory rules were framed to relax the control of the Secretary of State and the Government of India—in place of which the control of provincial legislatures was substituted. However provision was made by the Devolution Rules to safeguard the salaries, pensions and other emoluments of the public services and the right to purchase the stores from the United Kingdom.

Proceeding to the subject of legislative devolution it should be pointed out that the Government of India Act, 1919, gave power to the provincial legislatures to make laws for the peace and good government of the province. No previous sanction of the Governor-General was necessary to legislate on provincial subjects except in the case of those provincial subjects which were subject to Indian legislation. However, previous sanction of the

1. Horne : The Political System of British India, p . 92

Governor-General was required in a number of other cases, such as, legislation on central subjects, legislation to impose new taxes not included in the approved list, legislation to alter or repeal Acts made before 1919 by any authority other than the provincial legislature, and legislation to alter or repeal Acts made by the Government of India since 1919.

The Governors were also required to reserve certain kinds of Bills passed by the provincial legislature for the consideration of the Governor-General; and the Act of 1919 also gave power to the Governor-General to veto any Bill passed by a provincial legislature.

The Government of India Act, 1919, and the Devolution Rules made under it, did not thus make the provincial governments fully autonomous. On the other hand, provincial governments were still required to pay due obedience to the orders of the Governor-General in Council and to keep the Government of India "constantly and diligently" informed of their proceedings and of other important matters. Nevertheless an important step had been taken towards provincial autonomy. But perhaps of still greater significance was the next step taken by the Montford Reforms—*viz.*, that of introducing a system of partial responsibility in eight (later ten) provinces. The government of each Governor's Province was divided into two parts—the Governor in Council in charge of the "Reserved Departments" and the Governor acting with Ministers in charge of the "Transferred Departments"—each part accountable to separate and distinct sets of the people—the British electors in the one case and the provincial voters in the other.

As was stated by the Joint Select Committee the Governor was the pivot of the new system of provincial government. He was appointed for a term of five years by His Majesty by Warrant under the Royal Sign Manual—usually from among public men in England in the case of the three presidencies and ordinarily from among the senior men in the public service in the case of the other five provinces. In the latter case previous consultation with the Governor-General was required by Statute. The members of the Executive Council were also appointed by His Majesty for five years and on a salary fixed by the Act itself. The maximum number of members of the Executive Council was fixed by the Government of India Act at four, but it was the opinion of the Joint Select Committee that it would not be necessary to appoint more than two persons in most of the provinces. It was provided by statute that at least one member of the Council must be a civilian of not less than 12 years' standing. No statutory provision was however made for the appointment of Indians to the Executive Council, but it was understood that one of the two members must be a non-official Indian. In case two Europeans were appointed to the Executive Council, the Joint Select Committee recommended the appointment of two non-official Indians as well.

Ministers were appointed by the Governor from among non-official gentlemen who should either be elected members of the local legislature or should become elected members within six months of their appointment ; and who, in the words of the Joint Select Committee, should be enjoying the confidence of the Legislative Council and be capable of leading it. The status of the Ministers was to be the same as that of the Executive Councillors and they were to be paid the same salary as that given to the members of the Executive Council—subject, of course, to the vote of the Legislative Council which may lower it, if it considers necessary. The Act provided that "any minister so appointed shall hold office during ...[the Governor's] pleasure."[1] No maximum number was fixed by statute in the case of the ministers but it was pointed out by the Joint Select Committee "that in no province will there be need of less than two ministers while in some, more will be required."[2] Provision was also made in the Act for the appointment of Council Secretaries at the discretion of the Governor to assist members of the Executive Council and the Ministers in a similar way as the Parliamentary Under-Secretaries in England Council Secretaries were to be appointed from among the non-official members of the Legislative Council and they were to be paid such salaries as were voted by the Council.

The administration of the "reserved" subjects was to be carried on by the Governor-in-Council according to rules made by the Governor. In cases of difference of opinion in the Executive Council matters were to be decided by majority vote. If the Council was equally divided the presiding gentleman had the right to give a second or the casting vote. However, the Governor was given by statute the power of over-riding the decision of the majority of his Council, if, in his opinion, "the safety, tranquillity or interests of his province or of any part thereof "were essentially affected."[3]

According to the Government of India Act, 1919, the administration of the transferred subjects was to be carried on by the Governor on the advice of his ministers, but he had the right to disregard the advice tendered by the ministers and to act as he deemed fit. The ministers, on the other hand, had the option of resigning. "In the last resort the Governor can always dissolve his legislative council and choose new ministers after a fresh election ; but if this course is adopted" the Joint Select Committee had hoped, "that the Governor will find himself in a position to accept" the views of his new ministers "regarding the issue which forced the dissolution."[4] However, in cases of emergency, which had to be certified and intimated to the Governor-General, the Governor pos-

1. Mukherjee : The Indian Constitution, Part I, p. 228. "A person holding office during pleasure can be removed without any reason for his removal being assigned." *Ibid.*, p. 229.
2. *Ibid.*, p. 512.
3. *Ibid.*, p. 226.
4. *Ibid.*, Part II, p. 512.

sessed the power of not filling ministerial vacancies and of resuming himself temporarily the administration of the transferred subjects. This power was reinforced by the provision made by the rules in this connection by which the Governor-General, with the previous sanction of the Secretary of State, was authorised to revoke or suspend the transfer of a provincial subject for a definite period.

It is no doubt strange that the Montford Reforms should have made no provision for the joint or cabinet meetings of ministers. The Instrument of Instructions issued to the Governors did not require the Governor of a province to consult the ministers together or to convene cabinet meetings of ministers. Under the Act the ministers were to be appointed separately by the Governor and were to be responsible individually to the legislature. It was left entirely to the discretion of the Governor whether to choose his ministers from members of one political party or from members of more than one party or even from gentlemen who belonged to no particular party at all, and also whether he would consult them together or separately. It was left to the ministers to establish the practice of acting in concert by resigning in a body when one of them had been forced to resign. It is no doubt true that the Joint Select Committee had expected the ministers "to act in concert together" and had recommended that this "should be recognised on the face of the Bill," but nothing was actually done in this connection. The Instrument of Instructions however provided that the Governor should act as a guide to his ministers and advise them in regard to their relations with the Legislative Council and to support them generally as far as possible. He was to keep them in office so long as he was not convinced that they had lost the confidence of the Council.

The Government of each province was thus divided into two parts and the sphere of each part was clearly demarcated. Cases of doubt, as to whether any particular matters belonged to the reserved or to the transferred departments, were to be settled by the Governor, whose decision was to be final. However, there was one subject which was kept common. It was finance. It concerned both the parts equally, and on it depended to a large extent the efficient working of the two parts.

The Devolution Rules provided for the distribution of the revenues between the reserved and the transferred subjects by an agreement between the two parts of the Government. The Joint Select Committee was confident "that ordinarily there would be no difficulty in arriving at an agreed solution"—"the problem can readily be solved by the simple process of commonsense and reasonable give-and-take." However, in cases of difference the Governor was given the power "to make an allocation of revenue and balances between the reserved and the transferred subjects." During the period the Governor's order of allocation was in force any increase of revenue due to the imposition of fresh taxation was to go to that

part of the Government which had initiated the tax. Proposals for borrowing or for additional taxation were to be considered jointly but the decisions on them were to be made by each part separately.

Such then was the scheme of dyarchy introduced by the Montford Reforms. The Joint Select Committee has given a picture of the manner in which, in their opinion, it should be worked. In regard to all important matters—those which were not to be disposed of departmentally—"the Committee conceive that the habit should be carefully fostered of joint deliberation between the members of the Executive Council and the Ministers, sitting under the chairmanship of the Governor. There cannot be too much mutual advice and consultation on such subjects,"[1] but once the consultation was over, the decisions should be made separately—so that the responsibility for each act and proceeding of the government should be definite and clear.

The success of this novel experiment rested on the central figure of the Governor. According to the Instrument of Institutions he was to be responsible to Parliament for maintaining "the standards of good administration and to further all changes tending to make India fitted for self-government."[2] In the opinion of the Joint Select Committee he was "to hold the balance between divergent policies and different ideals, and to prevent discord and friction."[3] He was to act as the "guide, friend and philosopher" of the new, untried ministers. He was to advise, warn and encourage them but was to allow them to make their own decisions and thus give them the opportunity of learning by making mistakes. On him was the duty laid by the Instrument of Instructions of "maintaining the safety and tranquillity of his province" and of preventing religious and racial conflicts ; of protecting the interests of Muslims and other minorities ; of securing the advancement of the depressed, backward and aboriginal tribes ; of "safeguarding the legitimate interests of the Europeans and Anglo-Indians" ; of protecting the rights and privileges of the members of the Public Services ; of preventing unfair discrimination in commercial and industrial matters ; and of seeing that the interests of the general public do not suffer by the grant of monopoly or special privileges to any private undertaking. To discharge these responsibilities Governors were given extensive powers. They could override their councils ; they could dismiss their ministers ; they could temporarily suspend dyarchy ; they could veto legislation ; they could certify measures and expenditure relating to reserved departments and get them passed in spite of their rejection by the legislature.

VIII

With the decision to introduce responsible Government in the provinces the question of the reform of the legislatures assumed

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1. Mukherjee : The Indian Constitution, Part II, p. 513.
2. *Ibid.*, Part I, p. 216.
3. *Ibid.*, Part II, p. 513 and 514.

great importance. The Montford Report did not favour the proposal to establish second chambers in the provinces but proposed that "there should be in each province an enlarged legislative council, differing in size and composition from province to province, with a substantial elected majority, elected by direct franchise, with such communal and special respresentation as may be necessary."[1]

According to the Rules framed under the Government of India Act, 1919, the strength of the legislative councils in the Governor's Provinces was fixed as follows :—Bengal 139 ; Bombay 111 ; Madras 127 ; United Provinces 123 ; the Punjab 93 ; Bihar and Orissa 103 ; Central Provinces 70 ; and Assam 53—in all 819. It was recommended by the Montford Report that not more than 20 per cent of the members should be official and not less than 70 per cent elected. Some of the members were to be nominated non-officials mainly to give representation to certain classes and interests which were not otherwise represented. These recommendations were accepted by the Joint Select Committee and the Parliament and effect was given to them by the Rules framed under the Government of India Act, 1919.

The system of elections recommended by the Montford Report was a direct one and was to be based on as broad a franchise as possible. It was however to provide for the separate representation of certain communities and special interests by means of communal and special electorates. The authors of the Montford Report were convinced that separate communal electorates were injurious to the development of responsible government, to the growth of civic sense in the people and to the progress of the backward communities. They were bound to stereotype the relations existing between members of the different communities and to perpetuate the backward condition of the minorities by removing all incentives to self-exertion and progress. All the same Mr. Montagu and Lord Chelmsford felt it necessary to maintain them in the case of Mohammedans mainly on account of the pledges given to them at the time of the Morley-Minto Reforms. But they wrote, "we see no reason to set up communal representation for Mohammedans in any province where they form majority of the voters."[2] Other communities naturally pressed the Montagu Mission to extend the system to them as well—"the Sikhs in the Punjab, the non-Brahmins in Madras [although in that presidency they actually constitute a majority], the Indian Christians, the Anglo-Indians, the Europeans, and the Lingayat community in Bombay"[2]—all pressed their claims. The authors of the Montford Report were opposed to a general extension of the communal system and rejected the demands of these communities, with one exception—from whom they felt "it is inexpedient to withhold the concession. The Sikhs in the Punjab are a distinct and important people ; they supply a gallant and valuable element to the Indian Army ; but they are everywhere in

1. Report on Indian Constitutional Reforms, 1918, p. 146.
2. *Ibid.*, p. 149.

a minority, and experience has shown that they go virtually unrepresented. To the Sikhs, therefore, and to them alone, we propose to extend the system already adopted in the case of Mohammedans."[1] But once the principle was accepted in the case of the Muslims and the Sikhs, it was impossible to deny it to the other communities and the Franchise Committee recommended the extension of communal electorates to Indian Christians in Madras, to Europeans in Madras, Bombay, Bengal, the United Provinces and Bihar and Orissa, and to Anglo-Indians in Madras and Bengal. The Joint Select Committee considered the claims of the non-Brahmins in Madras and the Marathas in Bombay also favourably and recommended reservation of seats for them in plural-member constituencies.

Thus, the rules framed under the Government of India Act, 1919, gave separate communal electorates to the Muslims, Sikhs, Indian Christians, Europeans and Anglo-Indians and reservation of seats in plural-member constituencies to the non-Brahmins and the Marathas. They also made provision for the special representation of the landlords, commerce and industry, planting and mining interests, and the universities by means of special constituencies. Provision was made for the representation of the depressed classes, labour, etc., through nomination. But no provision was made for the representation of women, as the matter was considered too delicate to be decided by foreigners ; it was left to the decision of the reformed councils themselves.

Still one more distinction was made for purposes of election in the new constitution. It was between town and country, between urban and rural constituencies. The Government of India was dissatisfied with the treatment of the question by the Franchise Committee. They wrote in their Fifth Dispatch :—"The point is an important one and requires reasoned treatment. After religion and race, the boundary between town and country is the greatest dividing line that runs through the Indian people. It corresponds closely with the division between progress and conservatism ; between English education and vernacular ; between experience of self-government and lack of such experience ; between the existence of newspapers, professions, bar, libraries, societies, etc., and their absence."[2] The argument ought to have led the Government of India to propose a large increase in urban representation. According to their own statement the urban classes were thus the fittest to send members to the Councils and also to supply candidates to rural areas. But the Government of India desired more pliant and conservative Councils and they recommended a heavy reduction in the seats assigned by the Franchise Committee to urban areas.

The Joint Select Committee also favoured an increase in the representation of the rural areas.

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1. Report on Indian Constitutional Reforms, 1918, p. 150.
2. Mukherjee : The Indian Constitution, Part II, p. 464.

Before giving the number of seats actually assigned by the Rules of July 20, 1920 to various communities, interests, etc., two facts may be mentioned, (1) that the authorities accepted the Lucknow Pact of December 1916 for allocating the Muslim seats in the various provinces ; and (2) that the Governor was given power to nominate two (in the case of Assam, one) experts as ordinary members for the time being for each important Bill, to help the Council in dealing with the measure. In the following tables an attempt has been made to give the relevant figures in regard to the composition of the legislative councils :—

1. Table showing the composition of the various provincial legislative councils :—

Legislative Council of	Nominated members		Elected Members															
					Through General Constituencies	Through Communal Electorates.					Through Special Constituencies.					Total number of elected members.	Total No. of Members
	Official	Non-official	Total			Muslim	Sikh	Indian Christian	European	Anglo-Indian	Total	Landlord	University	Commerce, etc.	Total		
1. Madras ...	23	6	29		65	13	...	5	1	1	20	6	1	6	13	98	127
2. Bombay ...	20	5	25		46	27	...	...	2	...	29	3	1	7	11	86	111
3. Bengal ...	20	6	26		46	39	...	...	5	2	46	5	1	15	21	113	139
4. United Provinces	18	5	23		60	29	...	...	1	...	30	6	1	3	10	100	123
5. Punjab ...	16	6	22		20	32	12	...	...	...	44	4	1	2	7	71	93
6. Bihar & Orissa	20	7	27		48	18	.	..	1	...	19	5	1	3	9	76	103
7. Central ... Provinces	10	6	16		40	7	...	...	...	...	7	3	1	3	7	54	70
8. Assam ...	9	5	14		21	12	...	...	...	...	12	...	...	6	6	39	53

2. Table showing the division between Urban and Rural Constituencies :—

Legislative Council of	Through Urban constituencies				Through Rural constituencies				Total Urban and Rural
	Muslim	Sikh	Non-Muslim	Total Urban	Muslim	Sikh	Non-Muslim	Total Rural	
1. Madras	2	...	9	11	11	...	56	67	78
2. Bombay	5	...	11	16	22	...	35	57	73
3. Bengal	6	...	11	17	33	..	35	68	85
4. United Provinces	4	...	8	12	25	...	52	77	89
5. Punjab	5	1	7	13	27	11	13	51	64
6. Bihar & Orissa		...	6	9	15	..	42	57	66
7. Central Provinces	1	...	9	10	6	..	31	37	47
8. Assam	...	..	...	1	12	..	20	32	33

The legislative councils in the provinces were thus considerably enlarged and made more representative of the various communities and interests. The proportion of elected members was made very much higher ; they were everywhere in a substantial majority. In all the councils taken together they formed 77·8[1] per cent of the total number. However the new councils could not be called democratic or really representative of the people as such. The franchise, although it was made direct was kept very narrow. The number of persons who were enfranchised in 1920 was only 5·3 millions out of a total population of 241·7 millions or just over 2 per cent of the people,[2] or 8·8 per cent of the males over 20 years of age. The percentage of voters to the adult male population varied from province to province :—it was highest in the United Provinces, 11·8,

1. Mukherjee : The Indian Constitution, Part I, p. 310.

2. India in 1922-23, chart facing p. 53.

and lowest in Bihar and Orissa, 3·9.[1]

The qualifications for the voter varied from province to province ; and in urban, rural and landlord constituencies, but the disqualifications were the same in all cases, namely that a person who (*a*) was not a British subject ; or (*b*) was a female ; or (*c*) had been adjudged by a competent court to be of unsound mind ; or (*d*) was under 21 years of age, was not entitled to have his name entered on the electoral roll. Persons convicted of a criminal offence punishable with imprisonment for a term exceeding six months, or of corrupt practices were disqualified for five years. The Local Government was empowered to remove the last disqualification and also disqualification (*a*) in the case of the subjects and rulers of Indian States. The provincial legislatures had the power to admit women to the vote by means of a special resolution to that effect.

If a person was not disqualified and possessed the qualifications prescribed for each type of constituency he was entitled to have his name registered on the electoral roll of the constituency for which he was qualified. The qualifications prescribed for voters in general constituencies were as follows :—Residence in the constituency during the previous twelve months and either payment of municipal taxes, amounting, in most cases, to not less than Rs. 3[2] per annum ; (*b*) occupation or ownership of a house of the annual rental value of Rs. 36[3] per annum in the majority of the provinces ; or (*c*) assessment to income tax on an annual income of not less than Rs. 2,000 in the case of urban constituencies ; and in rural constituencies, the holding of agricultural land assessed at an annual value, as a rule, of Rs. 10 to Rs. 50 per annum.[4] Military service was also regarded as a qualification for the vote in all provinces and persons holding the office of *lambardar* or village headman were also entitled to vote in the Punjab and the Central Provinces. The chief qualifications for the vote in a landholders' constituency was the possession of a landed estate assessed to land revenue varying from Rs. 500 (in the case of the Punjab) to Rs. 5,000 (in the case of the United Provinces). In the university constituencies all graduates of over seven years' standing were given the vote. For other special constituencies the members of the respective associations organised to protect special interests—such as Chambers of Commerce, Millowners' Associations, Planters' Associations, etc., —were given the vote.

No special qualifications were required from the candidates seeking election to the provincial legislatures, except that they were

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1. Report of the Reforms Enquiry (Muddiman) Committee, 1924, p. 129.

2. The amount fixed in the large cities—Calcutta, Bombay and Madras—was very much higher.

3. Considerably lower amounts were fixed for Mohammedans in Bengal, and in Bihar and Orissa.

4. In the United Provinces, the amount was Rs. 25 per annum.

not less than 25 years of age and were voters or qualified to be voters in the constituency[1] for which they were standing provided they did not possess the disqualifications. In addition to the disqualifications mentioned in the case of electors there were some others—such as insolvency or dismissal or suspension from legal practice, etc.—which were also prescribed in the case of candidates.

Elaborate rules were laid down for the holding of elections and for securing their purity. Stringent provisions were made by legislation for putting down the use of corrupt practices. Arrangements were made for the settlement of election disputes by Commissioners appointed by the Governor for the purpose. Orders of the Governor, which were to be in accordance with the report of the Commissioners, were to be final.

The new legislative councils were thus elected bodies though the system of election was not purely territorial. The official element though small and in a definite minority was not unimportant. It could wield great influence with the help of nominated members and members elected through special and communal electorates.

The legislative council in a Governor's province was constituted for three years; but it could be dissolved earlier, if the exigencies of parliamentary government made it necessary. The life of the council could also be extended by the Governor under special circumstances up to a maximum period of one year. The Governor was given the power of summoning, proroguing, and dissolving the council and of fixing the time and place of its meetings. The Governor was, however, debarred from becoming a member of the legislative council although he had the right to address it. The Governor[2] was to appoint the President of the council for the first four years and to confirm the election of the Vice-President.

The legislative council was given the general power of making laws for the peace and good government of the province; but this power was circumscribed in a number of days. In the first instance, as already stated,[3] the Devolution Rules required previous sanction of the Governor-General in several cases. Secondly, the Governor was given the power, through certification, of passing legislation which he considered essential for the discharge of his responsibilities for the administration of reserved subjects in spite of its rejection by the legislative council. Thirdly, the Governor was empowered to stop, at any stage the consideration of a bill or a part of a bill on the ground that it affected the safety or tranquillity of the province or any part thereof. And, lastly, there was the power of

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1. Residential qualifications were imposed on the candidates only in the three provinces of Bombay, the Punjab and the Central Provinces.

2. The Montford Report had recommended that the Governor should himself be the President and that the Vice-President should also be an official as far as possible.

3. See pp. 268-70, *Supra*.

vetoing Bills, passed by the legislative council, vested both in the Governor and the Governor-General—and also of returning measures to the Council for reconsideration. In addition, the Crown had the power of disallowing any Act of provincial legislature. These were serious limitations on the legislative powers of the provincial legislatures ; but some of them were inherent in the very conception of Dyarchy.

The Montford Report examined a number of methods of enabling the Governor in Council to secure necessary legislation for reserved departments and ultimately recommended the constitution of Grand Committees, with official majority for the purpose. But the Joint Select Committee rejected the plan of the Grand Committees because it was thought that they would perpetuate the evils of the "official bloc", obscure the responsibility of the Governor-in-Council and would not enable the Governor to secure legislation in a crisis. The Committee, therefore, proposed to make the responsibility direct and clear by empowering the Governor to pass "essential" legislation on his sole responsibility in case the legislative council refused to do so. "Acts passed on his sole responsibility should be reserved by the Governor-General for His Majesty's pleasure and be laid before Parliament." This was done by clause 13 of the Government of India Act, 1919.[1]

Similar provision was made in the Act in regard to the expenditure on reserved subjects and expenditure in cases of emergency. The Government of India Act, 1919 required the presentation of the Financial Statement to the legislative council each year and the making of proposals for the appropriation of the revenue in the form of demand for grants. "The Council may assent, or refuse its assent, to a demand ; or may reduce the amount therein referred to....."[2], provided that :—(*a*) the local government shall have the power to restore any item relating to a reserved subject, if the Governor certifies that the expenditure is essential to the discharge of his responsibility for the subject, (*b*) "the Governor shall have the power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department"[3], and (*c*) that all proposals for appropriation of revenues shall be made on the recommendation of the Governor alone.

The financial powers of the legislative councils were still further restricted by clause II (3) of the Act of 1919, which required that the proposals relating to the following heads of expenditure shall not be submitted to the Councils :—

(*i*) contributions payable by the local government to the Governor-General in Council ; and

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1. India in 1919, pp. 242-3.
2. *Ibid.*, p. 240.
3. *Ibid.*, p. 241.

(*ii*) interest and sinking fund charges on loans ; and

(*iii*) expenditure of which the amount is prescribed by or under any law ; and

(*iv*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ; and

(*v*) salaries of judges of the High Court of the province and of the Advocate-General.

The members of the legislative councils had the right to ask questions, move resolutions, make motions of adjournment and of no-confidence in the ministers, and to introduce bills, subject to the Standing Rules of the Council—which imposed certain restrictions in the interest of the proper conduct and for the safety and tranquillity of the province.

The provincial legislative councils were to conduct business, in accordance with the Rules of Business which were framed by the Government of India like the other rules made under the Act of 1919. These Rules were supplemented by Standing Orders made originally by Governors-in-Council but subject to alterations or amendment by the Councils themselves. The Rules of Business provide for the appointment of Standing Committees of the Legislature to enable the members to come in close touch with actual problems of Government. They are purely advisory bodies and their purpose is chiefly educative. Among them the most important is the Finance Committee which advises on all projects for new expenditure. Separate and distinct from it is the Committee on Public Accounts which must be appointed in every province under the Rules of Business and whose constitution and functions have been carefully defined by the Rules. It is presided over by the Finance Member and consists of not more than 12 members including the Chairman, of whom not less than 2/3rds are elected by the non-official members of the legislative council on a system of proportional representation. The Committee is to examine the audit and appropriation accounts, to make sure if the money voted has been spent according to the wishes of the legislature and it is to submit the report of its scrutiny to the Council. The legislature is thus able to see as to whether its decisions are properly carried out or not.

Such then were the changes made by the Government of India Act, 1919, in the provincial sphere. They constituted the first step on the road to responsible government. Provision was made in the Act itself for the appointment of a Statutory Commission, ten years after, consisting of such persons as were approved by the two Houses of Parliament and His Majesty,[1] "to

1. There is nothing in the Act or in the Report of the Joint Select Committee to prevent the Secretary of State from recommending names of persons other than Members of Parliament for appointment to the Statutory Commission.

enquire into the working of the system of government, the growth of education and the development of representative institutions, in British India, and matters connected therewith." The Commission was to report "as to whether and to what extent it is desirable to establish the principle of responsible government; to extend, modify, or restrict the degree of responsible government, then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable"—and also upon "any other matter affecting British India and the provinces", which may be referred to it by His Majesty.[1]

IX

Although it was made clear by the Montford Report that there was no intention to introduce responsibility or alter the character of the government at the centre, it was not possible to leave things as they were at the centre either in India or in England. The Montford Reforms, therefore, carried out certain changes in the machinery of government at the centre both in India and in England and also dealt with the question of the public services in India and the problem of relationship with the Indian States.

The Declaration of August 20, 1916, had announced that the policy of the British Government was of "increasing association of Indians in every branch of the administration". The Montford Report, however, sounded a note of warning. "There must be no such sudden swamping of any service with any new element that its whole character suffers a rapid alteration" and the number of Indians recruited year by year should be such "as the existing members of the service will be able to train in an adequate manner and to inspire with the spirit of the whole"[2]. It was, therefore, proposed that for those services that were still recruited in England "a definite percentage of recruitment to be made in India" be fixed. For instance, in the case of the Indian Civil Service, "33% of the superior posts should be recruited in India".[3] The rate of Indianisation was to be increased gradually in the various public services.

The Government of India Act, 1919, empowered the Secretary of State in Council to make rules for the appointment "of persons domiciled in India" to the Indian Civil Service[4] and also "for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct".[5] Authority was given to the Secretary of State to delegate the power of making rules, etc., to the

1. Clause 41 of the Act, India in 1919, p. 513. It is doubtful whether it was legal to refer questions relating to Indian States to the Statutory Commission. Only matters relating to British India could be referred to it under the Act of 1919.
2. The Report on Indian Constitutional Reforms, 1919, p. 200.
3. *Ibid.*, p. 201.
4. Section 37 (1) of the Act, India in 1919, p. 252.
5. Section 36 (2) of the Act, *Ibid.*, p. 251.

Governor-General in Council or to local governments, etc. The Act of 1919 made provision for the appointment by the Secretary of State in Council of a Public Service Commission consisting of not more than five members, including the chairman. Each member was eligible for re-appointment. "The Public Service Commission shall discharge in regard to recruitment and control of the Public Services in India such functions as may be assigned thereto by rules made by the Secretary of State in Council."[1]

According to the new rules made by the Secretary of State in Council the system of simultaneous competitive examinations in India was adopted partially and also provision was made by nomination to secure the representation in the public services of the various communities and provinces. But the whole question of the civil services—including that of improving the pay and prospects of the European members of the Services recommended by the Montford Report—was referred to a Royal Commission, with Lord Lee as its Chairman, in 1922.

However, to return to 1918: The joint authors of the Montford Report had shown great solicitude for the European members of the public services and had not only recommended an increase in their salaries and allowances, and an improvement in pension and leave rules, to compensate them, so to speak, for a decrease in their number and for the change in their constitutional position, but had also promised to provide for them effective safeguards in the new constitution. Three important provisions were inserted for this purpose in the Government of India Act, 1919:— The first was protection against dismissal by the Ministers who had no option but to employ them in important positions; the second was the right of complaint to the Governor over the head of their ministerial chiefs; and the third was an absolute protection for their salaries, pensions and other allowances. If in spite of these safeguards some members of the civil services "felt that they cannot usefully endeavour to take part" in working the dyarchical system, the Joint Select Committee suggested, "that they should be offered an equivalent career elsewhere if it is in the power of His Majesty's Government to do so or in the last resort, that they should be allowed to retire on"[2] proportionate pensions.

X

The third formula laid down by the Montford Report ran as follows:—

"*The Government of India must remain wholly responsible to Parliament, and saving such responsibility, its authority in essential matters remains indisputable, pending experience of the effect of the changes now to be introduced in the provinces. In the meantime the Indian Legislative Council should be enlarged and made more*

1. Section 38 (2) of the Act, *Ibid.*, p. 252.
2. Mukherjee: The Indian Constitution; Part II, p. 526.

representative and its opportunities of influencing Government increased."[1]

Effect was given to this policy by Part II of the Government of India Act, 1919, and by the Rules made by the Government of India in this connection. A new legislature consisting of two chambers was created and the constitution of the Viceroy's Executive Council was slightly modified. The maximum limit imposed on the membership of the Executive Council was removed[2]; pleaders of Indian High Courts of ten years' standing were made eligible for membership[3]; and provision was made for the appointment of Council Secretaries from among the members of the Indian Legislative Assembly.[4] Three members of the Executive Council were to possess, as before, service qualification,—*i.e.*, they must have served the Crown in India for ten years. No statutory provision was made for the inclusion of Indians in the Executive Council but three Indians were appointed on the recommendation of the Joint Select Committee.

The new central legislature was to consist of two chambers—the Council of State and the Indian Legislative Assembly. The Montford Report had recommended the creation of the Council of State mainly to enable the Government of India to secure "essential" legislation which was refused by the more popular lower house. It had, therefore, proposed that the Council of State should consist of 50 members, half of whom should be officials; four men to be nominated non officials and the remaining 21 elected—15 to be returned by the non-official members of the provincial councils and 6 by the landlords, Mohammedans and the Chambers of Commerce directly. Wrote the authors of the Report: "Inasmuch as the Council of State will be the supreme legislative authority for India on all crucial questions, and also the revising authority upon all Indian Legislation, we desire to attract to it the services of the best men available in the country. We desire that the Council of State should develop and should possess 'senatorial character', and the qualities usually regarded as appropriate to a revising chamber."[5] The Joint Select Committee did not think it necessary or desirable "to retain the Council of State as an organ for Government legislation." They recommended that "it should be reconstituted from the commencement as a true second chamber."[6] The Franchise Committee had suggested the non-official members of the Council of State should be elected by the same group of electors as elect the members of the Legislative Assembly; but the Joint Select Committee did not agree and recommended that

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1. The Report on Indian Constitutional Reforms, 1918, p. 124.
2. Clause 28 (1) of the Act, India in 1919, p. 248.
3. Clause 28 (2) of the Act, *Ibid.*, p. 249.
4. Clause 28 (1) of the Act, *Ibid.*, p. 249.
5. Clause 28 (1) of the Act, *Ibid.*, p. 179.
6. Mukherjee: The Indian Constitution, Part II, p. 520.

the Government of India should be authorised to constitute separate constituencies for the election of members to the Council of State.

Under the Rules framed by the Government of India the Council of State was to consist of 60 members, one of whom was to be appointed the President by the Governor-General. Out of the remaining 59, 25 were to be nominated—19 officials and 6 non-officials; and 34 were to be elected—20 by general electorates, 3 by European Chambers of Commerce and 11 by the communal electorates (10 by Muslims and 1 by the Sikhs). The Council of State was to be a revising chamber, with equal powers in legislation with the lower house.

The popular house was called the Indian Legislative Assembly and was to consist of 143 members—exclusive of the President, who was to be appointed by the Governor-General for the first four years. Out of the total, 40 were to be nominated—25 of whom were to be officials and the rest 15, non-officials; and 103 were to be elected—51 by general constituencies, 32 by communal constituencies (30 by Muslims and 2 by Sikhs); and 20 by special constituencies (7 by landholders, 9 Europeans and 4 by Indian Commerce). The Franchise Committee had recommended a system of indirect elections for the Indian Legislative Assembly; because, in its opinion, direct elections, though preferable, were impractical—constituencies framed on the basis of the provincial franchise would be too large and unwieldy; and a narrower franchise would be both "illogical" and "politically undesirable".[1] The Joint Select Committee did not agree with this view and recommended that the Government of India should be asked to make fresh proposals in this connection.

Thus the questions of deciding the system of election to the central legislature, of determining the franchise, and of creating the various types of constituencies were left to the Government of India for settlement by the Rules to be framed under the Act of 1919. The Government of India decided in favour of direct elections for both houses of the central legislature. The franchise was based largely on a high property qualification. In the case of the Council of State voters should be assessed either to income-tax on an annual income of not less than Rs. 10,000 to Rs. 20,000 or to land revenue of Rs. 750 to Rs. 5,000[2]. In addition, those who had previous experience of public work or who were recognised as men of high scholarship or academic worth—*viz.*, those who are or have been members of a legislature; or those who hold or have held the office of a chairman or a vice-chairman of a municipality or district-board or co-operative central bank; or those who are or

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1. Mukherjee: The Indian Constitution, Part II, p. 215.

2. Considerably lower limits were fixed for Mohammedans in Bengal and Bihar and Orissa. In the Punjab the lowest figure was prescribed, whilst the highest figure was fixed in the United Provinces.

have been members of a university senate or those who hold the highest title conferred for oriental scholarship—was entitled to have their names enrolled on the electoral roll of general constituencies for the Council of State.

The qualifications for the voters of the Indian Legislative Assembly were either (*a*) payment of municipal taxes amounting to not less than Rs. 15 to Rs. 20 per annum; or (*b*) occupation or ownership of a house of the annual rental value of Rs. 180; or (*c*) assessment to Income-tax on an annual income of not less than Rs. 2,000 to Rs. 5,000; or (*d*) assesment to land revenue for Rs. 50 to Rs. 150 per annum, varying from province to province.

The disqualifications in the case of both the electors and the candidates for the Council of State as well as for the Indian Legislative Assembly were the same as those prescribed for the voters and candidates respectively of the provincial councils, as described above. No special qualifications were prescribed for the candidates for election to the two houses of the Central Legislature, except that they should be over 25 years of age and should be qualified as voters for the constituencies from which they seek election.

Thus both the houses of the central legislature possessed elected majorities—though the elected majority was very narrow in the case of the Council of State. The Upper House represented largely the wealthy classes—the total number of voters for the Council of State was only 17,364.[1] The Indian Legislative Assembly was comparatively a more popular house; but even in its case the total number of voters did not exceed ten lakhs—the exact figure was 909,874 in 1920—out of a total population of some 254 millions.

Such then was the representative character of the two chambers of the Central Legislature. Each chamber was constituted for a definite period though power was given to the Governor-General to dissolve it earlier[2] or to extend its life further.[3] The normal life of the Assembly was three years and that of the Council of State five years. Each chamber was required to conduct its business according to the Rules of Business supplemented by its own Standing Orders. The time and place of the meetings of the two houses were to be fixed by the Governor-General, who had the power to summon, prorogue and dissolve the chambers. He had also the right of addressing the members of the two houses.

The field of legislative activity of the Central Legislature was very wide, though there were serious limitations imposed on its powers. The Indian Legislature could make laws for the whole of

1. The figures are taken from Appendix II of India in 1920, p. 248.

2. It is difficult to imagine circumstances in which an earlier dissolution would be necessary as the Executive Council was made independent of the legislatu e.

3. No specific period is mentioned in the case of the two chambers of the Central Legislature; like that of one year provided for in the case of the provincial councils.

British India[1] ; for subjects of His Majesty and servants of the Crown in other parts of India ; for Indian subjects of His Majesty wherever they may happen to be ; and for all persons employed in His Majesty's defence forces—military, naval and air force. It could also repeal or amend laws for the time being in force in British India or applicable to the persons mentioned in the preceding sentence. However, previous sanction of the Secretary of State in Council was necessary to pass legislation abolishing any High Court in India or empowering any court lower than the High Court to pass sentence of death on European-born British subjects or their children. The Indian Legislature had no power to amend or repeal any parliamentary statute relating to British India or to do anything affecting the authority of the Parliament or the unwritten laws or the constitution of the United Kingdom.

Besides these limitations that were imposed to keep the sovereignty of the British Parliament intact there were other important restrictions that were imposed on the Legislative Assembly to maintain the supremacy of the Governor-General and his Council. To begin with, previous sanction of the Governor-General was required to introduce measures affecting :—

"(*a*) the public debt or public revenues of India, or imposing any charge on the revenues of India ; or

(*b*) the religion or religious rites and usages of any class of British subjects in India ; or

(*c*) the discipline or maintenance of any part of His Majesty's military, naval or air forces ; or

(*d*) the relations of the Government with foreign princes or states" ; or any measure—

(*i*) regulating any provincial subjects or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature ; or

(*ii*) repealing or amending any Act of a local legislature ; or

(*iii*) repealing or amending any Act or ordinance made by the Governor General."[2]

Secondly, the Governor-General was given the power of preventing the consideration, at any stage, of a Bill or a part of a Bill in either chamber of the Indian legislature, if, in his opinion, it "affects the safety or tranquillity of British India, or any part thereof."[3]

Thirdly, the Governor-General was empowered—through what

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1. See section 65 of the Government of India Act. 1915, as amended by the Act of 1919. Mukherjee : The Indian Constitution, Part I, p. 273.

2. Section 67 clause (2) of the Consolidated Act, See Mukherjee : The Indian Constitution, Part I, pp. 281-2.

3. *Ibid.*, p. 282.

has come to be known as his power of certification—to enact laws which he considered "essential for the safety, tranquillity or interests of British India or any part thereof"[1] if either Chamber refused or failed to pass them. Every Act so passed required the assent of His Majesty, which could not be given "until copies thereof have been laid before each House of Parliament for not less than eight days on which that house has sat."[2] This provision was substituted by the Joint Select Committee in place of the scheme of the Second Chamber proposed by the Montford Report and embodied in the original Bill for securing essential legislation, because the Committee did not consider it proper that the Governor-General should conceal his responsibility through the working of the evil system of "official-bloc" in the Council of State.

Fourthly, the Governor-General possessed the power of making and promulgating "ordinances for the peace and government of British India or any part thereof"[3] in cases of emergency. An ordinance issued by the Governor-General was to "have the like force of law as an Act passed by the Indian legislature", "for the space of not more than six months from its promulgation."[4]

Fifthly, the Governor-General was given the power of returning any measure passed by the two houses of the Central Legislature for reconsideration before signifying his assent or dissent.

Lastly, the Governor-General's assent was essential for the enactment of a law by the Indian Legislature. He had the power to give his assent or to reserve the Bill for the signification of His Majesty's pleasure thereon. The Crown had the power of disallowing any Act made by the Indian Legislature or the Governor-General. The Joint Select Committee had made it clear that the vetoing power of the Governor-General was real and was meant to be exercised.

A measure before it could be presented to the Governor-General for his assent required the consent of both the houses of the legislature. "If any Bill which has been passed by one Chamber is not, within six months after the passage of the Bill by that Chamber, passed by the other Chamber, either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers."[5] Deadlocks between the two chambers were thus to be solved by the device of joint sitting commonly employed in such cases.

Members of both chambers were given the right of putting interpellations and supplementary questions, of moving resolutions

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1. Section 37B of the Consolidated Act, *Ibid.*, p. 293.
2. *Ibid.*, p. 294.
3. *Ibid.*, pp. 298-9.
4. Mukherjee : The Indian Constitution, Part I, p. 299.
5. Section 67(3) of the Consolidated Act, *Ibid.*, p. 282.

and making motions of adjournment, and of introducing projects of legislation, under conditions prescribed by the Rules. The members also were given the right of freedom of speech in the two chambers.

The Government of India Act, 1919, required the presentation of the financial statement of the Governor-General and his Council to both the chambers of the Indian legislature. The Government was to submit—on the recommendation of the Governor-General alone—proposals for the appropriation of revenue, in the form of demands for grants, to the vote of the Indian Legislative Assembly, except those relating to the following heads of expenditure :—

"(*i*) Interest and sinking fund charges on loans ; and

(*ii*) expenditure of which the amount is prescribed by or under any law ; and

(*iii*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ; and

(*iv*) salaries of chief commissioners and judicial commissioners ; and

(*v*) expenditure classified by the order of the Governor-General in Council as :—

(*a*) ecclesiastical ;

(*b*) political ;

(*c*) defence."[1]

These items were not open even to discussion in either Chamber, "unless the Governor-General otherwise directs."

All other items of expenditure were to be submitted to the vote of the Legislative Assembly, which "may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant"[1] but the Governor-General was given the power, "if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities," to act "as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly." The Governor-General was also empowered in cases of emergency, "to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof."[2]

The Indian legislature was thus not only a non-sovereign law-making body but it was also powerless before the executive. The Governor-General in Council were supreme in all spheres of govern-

1. Section 25 of the Act of 1919, India in 1919, p. 249.
2. *Ibid.*, p. 249.

mental activity—administrative as well as legislative and financial. Not only was the executive independent of the legislature it also possessed the power of over-riding the legislature in almost all respects. However some of the members were afforded opportunity, through Standing Committees, of familiarising themselves with the administrative problems and the working of the executive departments. The two important committees of the Assembly were the Finance Committee and the Committee on Public Accounts. The members of the Assembly had also the opportunity of exposing the Government of India, *i.e.*, of demonstrating that the government of the country was being carried on against the wishes as well as the interests of the people. Whatever else the Indian Legislative Assembly may or may not be able to do it was certainly given the power of uncovering the mask from the face of the Government of India.

XII

The Government of India Act, 1919, also made certain changes in the "Home" Administration of India. In the first instance power was given to the Secretary of State in Council for the relaxation of control in view of the partial introduction of responsibility in the provinces. No statutory relaxation of control over the reserved departments or over the Government of India was however possible "so long as the Governor-General remains responsible to Parliament". The Joint Select Committee suggested the establishment of a convention by which the Secretary of State was required to refrain from interfering save in exceptional circumstances "in matters of purely Indian interests where the Government and the Legislature of India are in agreement."[1] This was felt to be specially necessary in the case of fiscal matters as the Joint Select Committee was anxious to remove all suspicion "that India's fiscal policy is dictated from Whitehall in the interests of the trade of Great Britain."[2] It is for this reason that this understanding was known as "the Fiscal Autonomy Convention".

The second change made by the Government of India Act, 1919, in the Home Administration of Indian Affairs was in the constitution of the India Council. The Indian opinion had demanded the abolition of the India Council and opinion in the Crewe Committee was divided. The Joint Select Committee, however, recommended its retention and the Government of India Act, 1919, accepted the recommendation and retained the India Council with slight modifications :—Provision was made for reducing the maximum strength of the Council from fourteen to twelve and the minimum strength from ten to eight ; instead of nine, half the members only were required to possess service qualification ; the term of office of new members was reduced from seven to five years ; the salary of members was fixed at £1,200 a year but an annual

1. Mukherjee : The Indian Constitution, Part II, p. 523.
2. *Ibid.*, p. 523.

allowance of £600 was to be given in addition to Indian members; meetings of the Council were to be held at least once a month instead of once a week; statutory quorum was abolished and the quorum was to be prescribed by the Secretary of State himself; and the Secretary of State in Council were given the power of making rules for the transaction of business. In this connection it may be mentioned that the Joint Select Committee had recommended the introduction of the "portfolio system" to increase the utility of the Council of India.

Thirdly, the Montford Reforms made provision for the separation of the "agency" functions from the administrative and political functions of the Secretary of State in Council. It was proposed by the Crewe Committee that the agency functions should be transferred from the Secretary of State in Council to a High Commissioner for India, specially appointed for the purpose in London. Power was given by the Act of 1919 to His Majesty to make provision by Order in Council "for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties and conditions of employment of the High Commissioner and his assistants and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council .....in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local Government."[1]

A High Commissioner for India was appointed in 1920[2] and the Stores Department, the India Students' Department, and the supervision of the work of the Indian Trade Commissioner were transferred to his control. The intention was to transfer gradually all the "agency functions" performed hitherto by the India Office to the office of the High Commissioner for India in London.

It was recommended by the Joint Select Committee that the cost of the controlling and political functions of the India Office (including the salary of the Secretary of State) should be placed on the British Estimates and the expenditure on agency functions should alone be chargeable to the Indian revenues. The Government of India Act, 1919, therefore, provided that "the salary of the Secretary of State, the salaries of his under-secretaries and any other expenses of his department may notwithstanding anything in the principal Act instead of being paid out of the revenues of India, be paid out of monies provided by Parliament and the salary of the Secretary of State shall be so paid."[3] Under this provision the expenses of the India Office for the controlling and political functions, along with the salaries of the Secretary of State and his under-secretaries, were put on the British Estimates.

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1. Section 35 of the Act, India in 1919, p. 251.
2. The first High Commissioner appointed was Sir William Meyer, who had retired as Finance Member of the Government of India a short time before.
3. Section 30 of the Act, India in 1919, p. 249.

XIII

The Reforms of 1919 were thus not confined to the provincial sphere : They also affected the Central Government and the "Home" Administration of Indian Affairs. They even went further : they brought within their ambit the Indian Princes as well. An attempt was made to improve the machinery for co-operation between British India and the Indian States by the creation of the Chamber of Princes and its Standing Committee. Provision was also made for referring disputes between the States and the Governments in British India and the cases of alleged misconduct on the part of the Rulers to Commissions of Inquiry appointed for each case as it arose.

Mr. Montagu and Lord Chelmsford were led to examine the question of relationship with the States because, in their opinion, constitutional changes in British India were likely to "react in an important manner on the Native States."[1] They also felt it necessary to assure the Princes "in the fullest and freest manner that no constitutional changes which will take place will impair the rights, dignities and privileges secured to them by treaties, sanads and engagements, or by established practice."[2] There was in reality no necessity for such an assurance because the changes recommended in the Montford Report did not touch the question of relationship with the States. Some of the Princes, however, were anxious to utilise the occasion to improve their position and to remove their grievance and disabilities.

As pointed out by the Montford Report :—"the policy of the British Government towards the States had changed from time to time, passing from the original plan of non interference in all matters beyond its own ring-fence to the policy of subordinate isolation initiated by Lord Hastings ; which in its turn gave away before the existing conception of the relation between the States and the Government of India, which may be described as one of union and co-operation on their part with the paramount power."[3] While this is true it is also necessary to remember that co-operation between the two was not on a footing of equality. The British Government in India—from Lord Canning to Lord Reading[4]—emphasised the subordinate position of the Princes and its own supremacy—so much so that it was held that its paramountcy was incapable of exact definition and limitation and that the rights of the Paramount Power to intervene in the affairs of the States were independent of the treaties, sanads, engagements, etc. However, the general position was thus summed up by the Montford Report : "The States are guaranteed security from without ; the Paramount

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1. The Report on Indian Constitutional Reforms, 1918, p. 193.
2. *Ibid.*, p. 194.
3. *Ibid.*, p. 190.
4. The subordinate position of the Princes was particularly emphasised by Lords Canning, Lytton, Curzon, Hardinge and Reading.

Power acts for them in relation to foreign powers and other States, and it intervenes when the internal peace of their territories is seriously threatened. On the other hand the States' relation to foreign powers are those of the Paramount Power ; they share the obligation for the common defence ; and they are under a general responsibility for the good government and welfare of their territories."[1]

During the course of the previous seventy years the points of contact between the States and British India had greatly increased and for several purposes the two Indias had almost become one unit. Write the authors of the Montford Report :—A perceptible process of infiltration had been going on. We have helped the States in times of famines ; we have lent them officers trained in British India to revise or supervise their revenue or financial administration, or to improve their agriculture and irrigation. Many of them have adopted our civil and criminal codes. Some have imitated, and even further extended, our educational system. Co-operation in matters of police and justice has been developed. Our railway and telegraph systems have been carried through and serve many of the States. The Indian customs tariff is a matter of concern to all States, including those which have ports of their own."[2] It is thus clear that for many purposes the two Indias have come very near each other. However, the political development in the States has not kept pace with British India, nor has it been uniform among the States themselves. The result is that "they are in all stages of development, patriarchal, feudal, or more advanced, while in a few States are found the beginnings of representative institutions. The characteristic features of all of them, however, including the most advanced, are the personal rule of the Prince and his control over legislation and the administration of justice."[2]

The position of the States, however, has been gradually improving *vis-a-vis* British India. For some time after the Rising of 1857 the British distrusted the Princes and were afraid that if they had the opportunity they might combine against them ; and, consequently, the British policy was to keep the Princes in isolation and to limit their opportunities of meeting one another as far as possible. However, with the growth of national consciousness among the educated classes in British India the policy of the British Government towards the Princes underwent a change ; and gradually the policy of rallying them to their support and of associating them with the government of the country was evolved. It was Lord Lytton who first realised the possibilities of utilising the Princes as a strong bulwark against the demands of the educated classes in British India. He had, therefore, recommended the formation of an Indian Privy Council consisting of the greater Indian Princes. As I have stated elsewhere,[3] the proposal resulted only in conferr-

1. The Report on Indian Constitutional Reforms, 1918, p. 190.
2. *Ibid.*, p. 191.
3. See introduction to my book : Indian States and British India : Their Future Relations ; particularly pp. 56-7.

ing on the Princes the empty title of the "Councillors of the Empress." The idea was later revived by Lord Curzon, who proposed the establishment of a "Council of Ruling Princes". It was, however, Lord Minto who gave a practical shape to the idea of co-operation between the British Government and the Indian Princes, especially with a view to meet the danger from the working of national forces. As pointed out by the Directorate of the Chamber of Princes' Special Organisation in "The British Crown and the Indian States" :—Lord Minto was alarmed at "the growth of the nationalist movement in British India...and he saw in the princes a strong bulwark against subversive movements."[1] He had laid down that "the foundation stone of the whole system is the recognition of identity of interests between the Imperial Government and the Durbars, and the minimum of interference with the latter in their own affairs", and "inaugurated that habit of consulting the Indian Princes on matters affecting the welfare of India as a whole, if the Provinces as well as the States."[1] Lord Minto first proposed to establish an Imperial Advisory Council and later suggested the establishment of an Imperial Council of Ruling Princes but neither fructified. However, Lord Hardinge carried the policy of his predecessor a step further by calling a Conference of the Princes to consider questions of higher education in the States. He also cultivated the habit of consulting the Princes whenever their interests were involved and encouraged the Princes to meet together for consultation and common action. And some of the leading Princes had by 1914 begun to form ideas of safeguarding the States' interests in the future policy of India. Lord Chelmsford continued the policy of his two predecessors and carried it further by convening conferences of the Princes annually and discussing matters affecting the States as a whole and the States and British India jointly. The Princes, however, were not satisfied with things as they were, and, when Mr. Montagu and Lord Chelmsford toured the country in connection with the Reforms enquiry, the Princes, through a deputation, represented their grievances and enunciated their proposals. The Princes asked for changes in three main directions. To put it in the words of Dr. Rushbrook Williams :—"They felt that they had no voice in the determination of all India policy. Secondly, they deplored the lack of imperial tribunal to decide disputes arising between themselves and the British Indian authorities, for it seemed to them that in a number of cases the Government of India was at once party and judge. Finally, they believed that the Political Department.....occasionally acted in disregard of the treaties, and in general exercised an authority which, if benevolent, was nevertheless in certain respects undeniably arbitrary."[2]

"To remedy these defects.....the Princes put forward a scheme for a deliberating assembly in which they could meet together and discuss their common interests" ; and which would also

1. Quoted in Singh : Indian States and British India : Their Future Relations, p. 56.
2. *Ibid.*, p. 58.

arrange for joint consultation with British Indian authorities on All-India matters. They further proposed a scheme for submitting matters of dispute to the arbitration of an impartial tribunal. And, lastly, they desired to associate with the Political Secretary a committee which would, as they hoped, ensure that the general policy of the Department should be more in harmony with the sentiments and desires of the Princes."[1]

The Montford Report accepted the main proposals of the Princes. The authors of the Report wrote :— "We wish to call into existence a permanent consultative body. There are questions which .affect the States generally, and other questions which are of concern either to the Empire as a whole, or to British India and the States in common, upon which we conceive that the opinion of such a body would be of the utmost value. The Viceroy would refer such questions to the Council, and we should have the advantage of their considered opinion. We think it all important that the meetings should be regular, and that ordinarily the Council should meet once a year to discuss the agenda approved by the Viceroy.[2] The first proposal of the Montford Report was thus to create a permanent "Council of Princes" ; "Our second proposal.....is that the Council of Princes should be invited annually to appoint a small Standing Committee to which the Viceroy or the Political Department might refer," "matters of customs and usages in particular."[3] The Committee may contain Dewans or Ministers if the Council so desires. Lastly, the Report recommended that in cases of disputes where, in the opinion of the Viceroy, an independent and impartial inquiry was desirable, he should appoint a Commission, consisting of a High Court Judge and one nominee of each party concerned "to enquire into the matter in dispute and to report its conclusions to him. If the Viceroy was unable to accept the finding the matter would be referred for decision to the Secretary of State."[4]

These proposals were considered at a Conference of the Ruling Princes at the end of January 1919 ; but the Conference could not come to any final decision on the matter of representation, though it approved generally the project of insitituting a Council of Princes and suggested that it should be called *Narendra Mandal*. The recommendations of the Conference were submitted to the Secretary of State ; and, the Viceroy in consultation with him drafted a Scheme for constituting the Chamber of Princes which was placed before another Conference of the Princes in November 1919. This scheme for the establishment of the Chamber of Princes was approved by the Conference and a Codification Committee was appointed to help the Viceroy in the work of drafting rules of business and resolution concerning Courts of Arbitration and Commissions of

1. Singh : Indian States and British India : Their Future Relations, p. 59.
2. The Report on Indian Constitutional Reforms, 1918, p. 195.
3. *Ibid.*, pp. 195 and 196.
4. *Ibid.*, p. 196.

Enquiry. The Chamber of Princes was formally inaugurated by the Duke of Connaught on February 8, 1921.

XIV

The Government of India Act, 1919, contained no provisions whatsoever in connection with the creation of the new machinery for co-operation between British India and the Indian States. The decision to constitute the Chamber of Princes was conveyed through Royal Proclamation.

At the Conference of Princes held in November 1919 Lord Chelmsford had drawn a distinction between "Ruling Princes" and "Ruling Chiefs". Ruling Princes were those Rulers of Indian States who enjoyed dynastic salutes and possessed more or less full powers of internal administration, and who were entitled to become members in their own right of the Chamber of Princes. The others were merely Ruling Chiefs. In the Chamber of Princes, as finally constituted, 108 Princes were given the right of personal membership. The remaining States were divided into two categories:—those which were given representation in the Chamber of Princes—there were 127 of them and they had the right to elect 12 members; and those which were given no representation whatsoever—their number was 327. The Chamber of Princes thus consisted of 120 members, out of which 108 were "Ruling Princes" who were members in their own right, and 12 were representatives of the "Ruling Chiefs". It was made clear by Lord Chelmsford that "first, attendance and voting in the Chamber will be voluntary", "second, the Chamber will be a consultative and not an executive body"; and, "third, the direct transaction of business between the Government of India and any State will not be prejudiced by the institution of the Chamber since each individual State whether represented in the Chamber or not will maintain its right of direct communication with the Government as heretofore". And added Lord Chelmsford:—"It will be necessary in this connection to provide specifically that the Chamber shall not discuss the internal affairs of any particular State or the actions of any individual Ruler."[1]

The Chamber of Princes thus constituted was to meet once a year ordinarily and was to be presided over by the Viceroy, who was also to approve the agenda. The Chamber was to elect its own Chancellor who was to preside in the absence of the Viceroy. He was also to be the President of the Standing Committee, which was to consist of four or five other members, besides the Chancellor. The members of the Standing Committee were elected annually by the Chamber subject to the condition that the Princes of Rajputana, Central India, Bombay, and the Punjab, must each be represented.

The functions of the Chamber and limitations on its powers were thus defined by the Royal Proclamation:—

"My Viceroy will take its counsel freely in matters relating to

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1. Speech of Lord Chelmsford to the Conference of Princes. See The Indian Annual Register, 1920, p. 88.

the territories of Indian States generally, and in matters which affect those territories jointly with British India or with the rest of my Empire. It will have no concern with the affairs of individual States or their Rulers, or with the relations of individual States to my Government while the existing system of the States and their freedom of action will be in no way prejudiced or impaired."[1]

The Standing Committee "meets twice or thrice each year at the headquarters of the Government of India and one of its most important functions is to discuss with the various departments of that Gevernment matters in which the administration of both the States and British India are concerned."[2]

XV

There were two other matters in connection with the Indian States which were dealt with by the Montford Report to which a brief reference is necessary here. Wrote the authors of the Report :— "Our two remaining proposals bear a direct relation to our constitutional scheme for British India. We recommend that as a general principle all important States should be placed in direct political relations with the Government of India."[3] This was necessary not only in the interest of good understanding, efficiency and quickness in the disposal of business but also on grounds of general policy—on the need of dividing all-India matters from those of provincial concern. In the case of other States the joint authors of the Report were not able to make definite recommendations. They wrote:—"It may be that the Government of India will assume direct relations with these States, or that they may be left for the time being in relation with the provincial governments; but in the latter case it seems to us that the head of the province should in each case act in his relations with the States as agent for the Central Government, and that relations with the Native States should not be matters of provincial concern in the sense that they are intended even to be transferred to the control of the legislative council."[4]

The second and last proposal of the Montford Report was in connection with devising some machinery for collective consultation between the Princes and the British Indian authorities in matters that affect both the States and British India. The proposal for including some of the Princes in the Council of State was not practical at this stage. The joint authors of the Report, therefore, recommended that, whenever considered necessary, the Viceroy may "arrange for joint deliberation and discussion between the Council of State and the Council of Princes or between representatives of each body."[4]

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1. Quoted in Singh : Indian States and British India : Their Future Relations, p. 61.
2. *Ibid.*, p. 62.
3. The Report on Indian Constitutional Reforms, 1918, p, 197. As to the changes actually made as a result of this recommendation see Singh : Indian States and British India : Their Future Relations, pp. 53-4.
4. Report on Indian Constitutional Reforms, 1918, p. 198.

21

GROWTH OF SECTIONALISM

I

The Montford Scheme proved a veritable apple of discord to the people of India. The unity that had been gradually built up with great labour and sacrifice was destroyed without much obvious effort almost at once. The Moderates and the Extremists who had united after a separation of ten years were divided again by the Montford Reforms—and a number of sectional organisations came into existence or were galvanised into action to press special consideration for their separatist demands in connection with the proposed reforms. Hindu-Muslim unity achieved at Lucknow in December 1916 was strained to a breaking point by the Arrah riots in Bihar in October 1917.

The immediate cause of the riots was the performance of cow sacrifice by the Mohammedans of Ibrahimpur in the Shahabad district in spite of their agreement to the contrary on the 29th September, 1917. The Hindus of the neighbouring rural areas were determined to put an end to cow sacrifice once for all because to them cow was an object of great veneration. "On the morning of September 30th, a mob of Hindus, estimated to number more than 25,000 attacked Ibrahimpur and some neighbouring villages. It was only dispersed after a hand to hand contest with the police, in the course of which much looting was done and the police station attacked. Strong reinforcement of military police were at once hurried to the district, and for 36 hours there was an outward calm. But on October 2nd, without further warning rioting broke out simultaneously over a large part of the district, and for six days law and order disappeared."[1] On the 9th, the trouble spread to the Gaya district as well. Ultimately the troops succeeded in restoring calm. A large number of rioters were arrested. They were "tried by special tribunals constituted under the Defence of India Act, and about one thousand individuals were convicted and sentenced to various terms of imprisonment."[2]

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1. India in 1917-18. p. 39.
2. *Ibid*, p. 40.

The Arrah Riots, as they came to be called, were severely condemned by the whole Indian Press, though writes Dr. Rushbrook Williams, certain sections of the Hindu Press attempted "to fix the blame on Government rather than upon the religious fanaticism of the ignorant rural population."[1]

The announcement of August 20, 1917 was thus followed by a serious communal riot in India in spite of the existence of very cordial relations between the Hindus and the Muslims. And curiously enough, shortly after the publication of the Montford Report also, terrible riots occurred in the country. On the 18th September, 1918, a communal riot broke out at Katarpur in the Saharanpur district of the United Provinces. In their endeavour to prevent cow sacrifice some twenty Mohammedans were killed by the Hindus. A large number of Hindus were arrested and tried. "One hundred and seventyfive.....were convicted.....; eight were sentenced to death, 135 to transportation for life, and two to seven years' imprisonment."[2]

The Arrah and Katarpur riots put communal unity to a severe test ; and if it were not for certain external causes which had alienated the Muslims from the British Government[3] it might have given way under the strain. As it was, communal unity was further strengthened by the sympathy shown by Mahatma Gandhi and other nationalist leaders with the Muslims in their demands in regard to the *Khilafat* and about the peace terms that were to be offered to Turkey. A large number of politically conscious Hindus identified themselves with the Muslims on the question of the *Khilafat* and the policy to be followed towards the Muslim belligerents at the Peace Conference.

II

The attitude of the Hindus secured the continuance of cordial relations between the Hindus and the Muslims. But nonetheless, the publication of the Montford Report had the effect of accentuating communal feelings and differences. The non-Brahmin movement had begun in Madras in 1916-17. It had made a rapid headway under the aggressive and capable leadership of Dr. Nair and in the belief that it had the sympathy and support of the Government behind it. As a matter of fact the nationalists sincerely believed that

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1. India in 1917-18, pp. 40-41.
2. Lovett : A History of the Indian Nationalist Movement, p. 180.
3. The feelings of resentment against the British Government culminated in the Calcutta Riots on the 9th and 10th September, 1918. The riot occurred in the attempt by the police to stop the Muslim procession which was marching to the Government House to secure the reversal of the Government order prohibiting the holding of the Muslim Conference. The Police had to open fire in order to disperse the processionists. However, matters assumed a more serious form the next day. The mill-hands joined the rioters and inflicted severe injuries on a foreman. A mob of 2,000 Muslims tried to force its way into the city of Calcutta. It was fired upon and finally dispersed.

the whole movement was organised under official inspiration and patronage as a counter-blast to the Home Rule agitation.

The Brahmins in the Presidency had occupied a position of great power and prestige for very long time and they formed an aristocracy of birth and knowledge—although wealth was largely in the hands of non-Brahmins. For centuries the Brahmins had treated the lower-caste men with little consideration and much arrogance, in their pride of caste, learning and power. And in spite of the fact that some of the advanced Brahmins had become social reformers, and were doing all they could to uplift the lower classes, the relations between the Brahmins and the non-Brahmins were far from satisfactory—the one was suffering from the superiority and the other from the inferiority complex. The situation was cleverly exploited by the Government of Lord Pentland when faced with the organised propaganda of Mrs. Besant for Indian Home Rule. During 1917-18, the non-Brahmins carried on counter-propaganda against the demand for Home Rule and demanded the continuance of British Rule in preference to, what they termed, Brahmin rule. Dr. Nair went to England to plead the cause of the non-Brahmins and to oppose the transference of power to Indian hands.

The Montford Report rejected the demand of the non-Brahmins for special representation either through separate electorates or through reservation of seats in joint electorates as they were in a substantial majority in the Presidency. This was strongly opposed by the non-Brahmins who had organised themselves into "the Justice Party". They carried on a strong agitation with the result that the Joint Select Committee accepted their claim for the reservation of seats in certain plural-member constituencies.

III

The case of the Sikhs in the Punjab was very much stronger than that of the non-Brahmins in Madras. As a matter of fact, the Sikhs were the only community to which the authors of the Montford Report felt it necessary to extend the system of separate electorates which they felt bound to continue in the case of the Muslims.

The Sikhs had no separate political organisation till 1919. Till then they had concentrated their attention on religious and social reform and on educational advancement. In 1888, a reform association, called the *Khalsa Diwan*, was started at Lahore—with a network of religious associations, *Singh Sabhas*, all over the province—with a view to purge Sikhism of superstition and Hindu rites and customs and to encourage the use of Sikh forms and ceremonies. One important result of the efforts of the *Khalsa Diwan* was the starting of the Khalsa College at Amritsar in 1892. By the beginning of the 20th century, however, the *Khalsa Diwan* became disorganised and defunct. But about the same time there came into existence another central organisation, called the *Chief Khalsa Diwan*, at Amritsar. The *Diwan* is still in existence and is doing important

educational work. Its Education Committee has been organising since 1908 the Sikh Educational Conference annually and is supporting a large number of educational institutions in the province.

Besides promoting the religious, social and educational advancement of the Sikhs, the *Diwan* has also been looking after the political interests of the community. The political policy of the *Diwan*, however, has not made a wide appeal—as it is considered too moderate or conservative and too pro-government by the younger members of the community. In connection with the dispute over the boundary wall of the Rikabganj Gurudwara in Raisina (New Delhi) the *Diwan* became unpopular—as its attitude was considered to be too accommodating to the Government. All the same, the *Chief Khalsa Diwan* continued to protect the political interests of the Sikhs by making representations to the Government as occasions arose. It submitted a written memorandum before the Montagu Mission and also organised a deputation which waited on the Secretary of State and the Viceroy.

The Sikh memorandum laid emphasis on the important position occupied by the Sikhs in both the political and economic life of the province—40% of the land revenue and canal charges together were paid by the Sikhs, although they formed only 11% of the population—and on the great sacrifices made by them during the Great and the other Wars and at the time of the Rising of 1857. One-third of the recruits raised in the Punjab during the Great War were supplied by the Sikhs and in normal times 20% of the total strength of the Indian army was made up of the Sikhs. Besides they were the last rulers of the Punjab and formed no less than half of the aristocracy and greater part of the landed gentry of the province. In education too the Sikhs had made greater progress than the members of the majority community. In view of these facts, the Memorandum asked for 1/3rd representation in the Punjab Council and their due share in the services.

The Montford Report did not go into the question of proportions but accepted the claim of the Sikhs to separate representation on the same basis as for the Muslims. The Punjab Government supported the claim of the Sikhs for considerable weightage :— "Their influential position in the Province ; which is based partly on historical and political factors, partly on their military prestige and partly on their comparatively high educational level and economic importance in the central and colony districts, entitles them to a considerably greater degree of representation than is indicated by numbers alone."[1] But the Punjab Council refused to consider their case and passed a resolution approving the Congress-League division of seats between the Muslims and the Hindus, as the Sikhs were no party to the national pact. Franchise Committee allotted to the Sikhs in the Punjab Council only 8 seats out of 54, which created a great discontent among them and made them realise the necessity

1. The Gurdwara Reform Movement and the Sikh Awakening, p. 75.

of organising a separate political association to protect their interests. The Sikhs of the Lyallpur district took the lead and with the co-operation of younger men from other districts formed the Sikh League. The first session of the League was held at Amritsar in the Congress Week and was presided over by Sardar Gajjan Singh, a member of the Punjab Legislative Council. The League considered the representation given to the Sikhs as inadequate and demanded 1/3rd of the elected and nominated seats in the Punjab Council.

The Sikh League and the Chief Khalsa Diwan continued to agitate for increase in their representation and sent a deputation to England to represent their case before the Secretary of State and the British Cabinet, but with little result. In the scheme which was finally sanctioned Sikhs were given 12 seats out of a total of 93 seats including both elected and nominated members. The number of elected members in all was 71, out of which 32 were elected by Muslim, 20 by General, 7 through special and 12 through Sikh electorates.

IV

The question of reforms accentuated the communal spirit not only among the non-Brahmins and the Sikhs but also among the members of other communities, such as the Europeans, Anglo-Indians and Indian Christians. Writes the author of "India in 1917-18" : "The non-official English community had of late taken very little interest in Indian politics, and the European Defence Association, which had come into existence more than thirty years ago, as a result of the Ilbert Bill agitation, had shrunk in numbers and in influence."[1] But the new policy of reforms made the Europeans realise the necessity of strengthening their organisation.

The European Defence Association had become simply the "European Association" in 1913 and in 1917 an endeavour was made to reorganise it upon a new basis. "Branches were formed all over India, a new central organisation was established in Calcutta, and, backed by a majority of the English-edited papers, the Association increased its membership in a short time to some 7,000 or 8,000 from scarcely as many hundred."[2] When Mr. Montagu arrived in India, the European Association represented its view-point before the Secretary of State and the Viceroy. It expressed grave doubts as to the result of forcing reforms on India and strongly deprecated any hasty political advance. It also asked for adequate representation to protect the interests of the non-official European community. The Montford Report rejected the claims of the Europeans to separate communal representation though it made full provision for the protection of European interests by giving special powers to the Government in that connection and also by giving full representation

1. India in 1917-18, p. 43.

2. Speech delivered on March 12, 1919 at the Savoy Hotel, London. See Indian Annual Register, 1919, p. 83.

to European commerce, industry, mining and planting interests. But the European Association was not satisfied and it represented its case for separate communal representation, in addition to the representation granted to special European business interests, before the Franchise Committee. This was also done by Anglo-Indians and Indian Christians, whose claims were similarly rejected by the authors of the Montford Report. The claims of all the three communities for separate representation were accepted both by the Indian Franchise Committee and the Joint Select Committee of Parliament and the Reforms of 1919 gave separate communal representation to the Europeans, Anglo-Indians and Indian Christians in those provinces where they were in sufficient numbers.

V

Although the policy of reforms was thus opposed by the European Association in India, its opposition was not so uncompromising as that of the Indo-British Association in England. This association was formed in London immediately after the announcement of August 20, 1917, with a view to combat the new policy of the Government and to create an anti-Indian opinion in Britain, but with the professed object of promoting and fostering "the unity and advancement of the Indian people." Commenting on this professed object, H. H. the Maharaja of Bikaner remarked :—"The methods, arguments and manifold activities of the Associations have, however, singularly disguised this avowed aim, and all that we can say is save us from such friends."[1]

The Indo-British Association was organised by some of the retired Anglo-Indian officials, with Lord Sydenham as their leader, and it held its inaugural meeting on 30th October, 1917, a few days before the Montagu Mission reached the shores of India. It began by issuing a confidential circular to British businessmen with Indian trade connections, asking them to contribute liberally to the funds of the Association and to regard their donations as "insurance premiums for British interests in India." The circular appealed to the selfish interests of Englishmen and its publication by the enterprise of a clever Indian journalist in London showed up the Association in its true colours.

The Indo-British Association carried on a vigorous anti-Indian propaganda in Britain and it attempted to pursuade the European Association in India to collaborate with it at the Indian end. "From the first it has been developing a ceaseless pamphleteering and press propaganda. The booklets and leaflets it issues so freely are intended to alarm the ordinary man as to the condition of India, to belittle in every possible way the educated classes of the country .....and to appeal to the personal and class interests at one time of the working man, at another—and more frequently—of business

1. Speech delivered on March 12, 1919 at the Savoy Hotel, London. See Indian Annual Register, 1919, p. 83.

firms participating in Indian trade."[1] It tried to exploit every occasion to create opinion against Indians and against the policy of political reform in India. It attempted to make capital out of the findings of the Indian Sedition Committee by publishing a pamphlet entitled "Danger in India—Sedition and Murder." This was perhaps the most scurrilous of the pamphlets issued by the Indo-British Association ; but it was by no means the only one of its kind. Indeed there was hardly any limit observed by these self-styled friends and well-wishers of the Indian people in abusing the educated Indians and their champions in England.

The Indo-British Association was thus the most uncompromising opponent of the Montford Scheme and it opposed it tooth and nail from the time it was conceived to the time it was put into operation and even after. The members of this Association have not been able to reconcile themselves to the idea of developing self-governing institutions in India.

VI

Another group of Englishmen which was almost equally hostile to the policy of reforms consisted of some of the members of the Indian Civil Service. They were not free to indulge in similar public propaganda as the retired members of the Service were able to do in England; but they organised themselves to offer as much opposition as their position would permit. The authors of the Montford Report had gone a long way to disarm their opposition and to win their co-operation; and they had written:—"We regard it as a libel on the Indian Civil Service as a body to say that they have resisted or will resist the policy announced last August. They have welcomed it because no one knew better than they how badly a declaration of policy was needed and they will carry it out with determination just as they have always carried out the policy laid down for them."[2]

It is no doubt true that the vast majority of the members of the Indian Civil Service ultimately decided to work the Reforms of 1919; but soon after the publication of the Montford Report they organised themselves to protest against the proposals and to repudiate the statement of Mr. Montagu and Lord Chelmsford that they welcomed the Reforms. The circular, containing the draft of the Memorial to be submitted to the Secretary of State for India, sent to the members of the service by the Indian Civil Service Association, Madras, states:—"We do not intend now to criticise the proposals regarded merely as a scheme for administering British India, but as a reference to the subject in the English Press suggests that the I.C.S., as a whole, approves and even welcomes the scheme, we think it desirable to say that it is not so."[3]

In 1918 several I.C.S. Associations were organised in the coun-

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1. The Indian Annual Register, 1919, pp. 83-84.
2. The Report on Indian Constitutional Reforms 1918, pp. 206-207.
3. The Indian Annual Register, 1920, p. 213.

try. Two of them were established in Bihar and Madras and a third one was under contemplation for Bengal, but which did not actually come into existence. The Bihar Association had issued a confidential circular, which was somehow secured by *the Searchlight*, Patna, and published in its issue of December 20, 1918. A similar circular letter was also sent by the Secretary of the Madras I.C.S. Association to British members of the Indian Civil Service. A copy of it reached the office of *New India*, Madras, and was published by it in its issue of January 11th, 1919.

The Madras letter contained a draft of the memorial which was intended to be submitted to the Secretary of State for India. It was described by one of the members of the Service, to whom it was sent for signature, as "just one long dismal wine. It is full of political innuendo; it is peevish not to say mutinous in tone."[1]

The Madras circular caused a great stir in Indian political circles and public meetings were held in various parts of the country to condemn the action and the attitude of the members of the Indian Civil Service.

The opposition of the I.C.S. to the Montford Proposals, unwise and intemperate as it was, was also natural under the circumstances. The I.C.S. had enjoyed a most privileged and powerful position in the government of the country for many generations. All of a sudden the members were faced with the prospect of occupying a subordinate position—not at once, it is true, but gradually, in any case. They lost control over themselves and gave way to a counsel of despair. The Bihar and Madras circulars demonstrate their nervousness and anxiety. They also, unfortunately, show that the members of the I.C.S. were actuated very largely by selfish motives. However, the Government of India became greatly alarmed and the Viceroy hastened to appease the I. C. S. by singing its praises and by promising full protection of their economic and political interests.[2] The speech of Lord Chelmsford, however, gave fresh offence to the leaders of public opinion in India. It was interpreted as a victory of reactionary forces. On the one hand, it had patted the rebellious members of the superior services and on the other it had announced the determination of the Government to proceed with repressive legislation proposed by the Rowlatt Committee. As a matter of fact, just after the speech of the Viceroy, the Home Member introduced the "Black Bills", as they came to be called, in the Indian Legislative Council. This doubly unsatisfactory attitude of the Government exasperated the feelings of the people and led to the creation of an agitation in the country the like of which had never been witnessed before.

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1. The Indian Annual Register, 1920, p. 221.

2. Read the speech of Lord Chelmsford before the Indian Legislative Council delivered on February 6, 1919.

VII

The announcement of August 20, 1917, and the publication of the Montford Report were thus the starting points of political differences in India. Not only were the various communal organisations reorganised and revitalized during 1917-18, the rank of the Congress were again split in 1918—and unlike 1907, the secessionists formed a separate political organisation of their own, with both national and provincial associations, which made reunion well-nigh impossible.

As stated in the previous chapter, one of the main objects of Mr. Montagu's Indian visit was to bring about the formation of a Moderate Party pledged to the support of his reforms scheme and willing to work on its behalf both in India and in England. He had come to an understanding with some of the Bengal leaders in this connection before leaving India. And shortly before the publication of the Montford Report, the "National Liberal League" was started in Bengal at Calcutta. Two days after the publication of the Report on Indian Constitutional Reforms, Mr. Surendranath Bannerjee convened a meeting of the Indian Association, Calcutta, to express approval of the Montford Proposals. In August 1918, the National Liberal League organised the first Conference of the Bengal Moderates under the presidency of the conservative Raja Pearey Mohan Mukherjee, who not only gave his whole-hearted support to the Montford-scheme but also dwelt upon the difficulties of introducing responsible govenment in India. "There are in India eighty races, speaking as many different languages and following more than a hundred different forms of religion. Among them there is no unity and hardly any solidarity."[1] He ended by saying:—Thoughtful men naturally dread the disasters which follow a period of transition from official to popular rule, and welcome the scheme embodied in the Report as a substantial advance towards self-government, full of future promise and hope."[2] The Conference passed a lengthy resolution expressing grateful thanks to Mr. Montagu and Lord Chelmsford, recognising that the Montford proposals constituted a substantial step towards the progressive realization of responsible government and welcoming the scheme in its general principles and outline "subject to modifications in the light of such suggestions and criticisms as may be received from public bodies."[2]

Shortly after the publication of the Montford Report nine moderate leaders of Bombay issued a manifesto explaining their attitude towards the Reforms Scheme. The attitude of the Moderate leaders was the same all over the country—they were convinced of the honesty, sympathy and sincerity of purpose of the authors of the Report and they regarded the proposals on the whole as progressive and substantial, though they made a number of suggestions to improve the scheme, especially with regard to the proposals relating to the Government of India.

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1. The Indian Annual Register, 1919, Part IV, p. 150.
2. *Ibid.*, p. 151.

The leaders of the left-wing of the Congress were divided into two groups. The extremist group, consisting of the advanced Home Rulers, regarded the scheme as "based on an unqualified distrust of the people of India and is so radically wrong alike in principle and n detail that in our opinion it is impossible to modify and improve it."[1] On the other hand, the central group, which came more and more to the fore-front in the councils of the Congress as time passed after the publication of the Report, looked upon the Montford Scheme as unsatisfactory and unacceptable unless altered materially. In other words the central group in the Congress was not for total rejection of the Montford Scheme but for its radical modification.

There was, however, a good deal of difference between the position of the Moderates and that of the central group in the Congress—the one considered the Montford proposals as on the whole progressive and substantial, whilst the other regarded them as unsatisfactory and disappointing. But, strange as it may appear, this difference was more verbal than real—it was a difference more in the view-point than in substance. In their concrete proposals for modification[2] there was a great deal common between the two groups. Both wanted the introduction of an element of responsibility in the Central Government. Both were anxious to enlarge the sphere of responsible government in the provinces and to restrict the powers of the Heads of Governments. Both asked for the abolition of the India Council and the relaxation of control over the governments in-India. Under the circumstances, it appears to me, that if the Moderates had not decided to abstain from the special session of the Congress there might have been no split in the Congress over the question of Montford Reforms. But the Moderate leaders had made up their mind to separate and to form themselves into an independent party to work the reforms.

What were the causes of this separatist action ? In my opinion, there were three chief reasons which were responsible for the secession of the Moderates.

The first important cause was the belief of the Moderates that the Congress was dominated by the Home Rulers who had expressed themselves as definitely hostile to the Montford Proposals. They feared that the Congress would summarily reject the proposals which would place them in a very awkward situation. They, therefore, decided to abstain from attending the special session of the Congress held at Bombay at the end of August 1918.

It is no doubt true that the first views expressed by Mr. Tilak, Mrs. Besant and other Congress leaders were, on the whole, uncom-

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1. Home Rulers' Manifesto, July 8, 1918. *Ibid.*, p. 119.

2. The resolutions passed at the special sessions of the Indian National Congress and of the All-India Moderate Conference are printed in parallel columns in the Indian Annual Register, Part IV, pp. 55-65.

promising.[1] But by the time the special session of the Congress was held, opinions had been modified and the importance of keeping the Moderates within the fold had come to be realised by wise leaders like Mr. Tilak, Mrs. Besant and Pandit M. M. Malaviya. It was for this reason that the Subjects' Committee of the Congress adopted a compromise resolution on the Reforms. As stated by Mr. Tilak in the open Congress :—"What we have tried to do in the Subjects' Committee is to distil 'the gourds and the cucumbers' together.....We were told the Congress was going to reject the whole scheme. I could never understand and have never understood what it means.....Fortunately for all, we have been able to place before you a reasoned document, a resolution, which combines the wisdom of one party, I may say, the temperament of another party, and if you like to call it, I do not like to call it myself—the rashness of a third party." "The Montagu Report is a beautiful, very skilful and statesmen-like document. We asked for eight annas of Self-Government ; the Report gives us one anna of Responsible Government and says that it is better than eight annas of Self-Government.. ...We now plainly say to the Government, we thank you for the one anna of Responsible Government but in the scheme we want to embody, not all that is embodied in the Congress-League Scheme, the rails might be different but the carriages that carry passengers might be transferred from one rail to another. This is what we have tried to do and we have tried to satisfy all parties concerned and a very difficult task has been accomplished."[2]

Indeed, the resolution on the reforms passed by the Congress at its special session was so conciliating that it made some of the Moderate leaders think that they had made a mistake in not attending the Congress—and some of them later attended the usual, annual session of the Congress, which was held at Delhi in Xmas 1918.

However, the bulk of the Moderates stuck to their resolve of forming a separate Moderate or Liberal Party and they held a special session of the Moderate Conference in November 1918, at Bombay, to formulate their views on the Montford Proposals.

The second reason for the session of the Moderates from the Congress was psychological. Persons like Surendranath Bannerjee

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1. The views of prominent Congressmen are thus summarised by Mr. Athalye :—"Mr. Tilak characterised it (Montford Report) as a sunless dawn. Mrs. Besant held that the political reforms .... were unworthy of England to give and of India to take. The Hon'ble Mr. Patel showed how in certain details the Report had made retrograde proposals. Mr. N. C. Kelkar pronounced the proposals as cruelly disappointing and 'almost a wicked attempt to let Indian leaders be strewed in their own juice.....' Prof. Jitendralal Bannerjee declared that the reforms were grudging, half-hearted, meagre, inadequate, and hence disappointed and abortive; whilst the veteran Dr. Subrahmanyam Ayer advised his countrymen not to touch the narcotic that was offered to them." Athalye ; The Life of Lokmanya Tilak, pp. 251-52.

2. Athalye : The Life of Lokamanya Tilak, pp. 253-55.

and Dinshaw Wacha, who had grown grey in the service of the country and who had not expected such quick developments as were brought about by the War, were won over at once by the talk of introducing responsible government. They had really waited so long that they could not think of waiting any longer—they jumped to grasp the hand of fellowship that was at least extended to them. Some of the Moderates had also become conservative by age and experience ; and they were afraid of a too rapid progress. They were too conscious of the weaknesses and drawbacks of their own people and wished to go slower.

The third reason was perhaps more important. The Moderate leaders were impressed by the earnestness of Mr. Montagu and they had become convinced of the sincerity of his purpose. They believed there were really a change in the angle of vision of the rulers which necessitated a corresponding change in the attitude of the Indian leaders. They were pained to see that the Congress leaders were not recognising this change—"the profound change in the spirit and the policy of the Government" and were persisting, "despite the altered conditions, in a campaign of opposition,"[1] as pointed out by Surendranath Bannerjee in his presidential address at the First All-India Moderate Conference at Bombay. The Moderate leaders were afraid that if they did not strengthen the hands of Mr. Montagu with their support the reactionary and extremist forces would prove too strong for him and they may lose this God-given opportunity which may not recur for a long time. It was for this reason that some of them had agreed to form a separate Moderate Party at the instance of Mr. Montagu, as pointed out above. Some of the Moderate leaders also sincerely believed that time had come to give a new orientation to the national policy. The time for criticism and opposition had gone and the time for co-operation and constructive work had arrived and that there was an urgent need for the formation of a new, constitutional party for the working of the responsible system of government.

Such then were the reasons for the secession of the Moderates from the Congress in 1918. To those was added another—the attitude of the extremists at the Delhi Congress and in the country.

At the special session of the Congress the desirability of keeping Moderates within the fold had kept the Extremists under check but when once the Moderates had definitely broken away and had held a separate All-India Conference it became almost impossible to keep the extremist element under control. At the Delhi Congress—in spite of the efforts of the President, Pandit Madan Mohan Malavya—the Moderate leaders, like Mr. Srinivasa Sastri, could not get a patient and uninterrupted hearing. And the Congress adopted a more extreme resolution demanding full self-government in the provinces. Many of the speakers attacked the policy of the Moderates and the position of Mr. Surendranath Bannerjee who had been

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1. The Indian Annual Register, 1919, Part V, p. 47.

supporting the Congress-League Scheme till December 1917 and who had been asking for full self-government within a specified time limit.

The position of the Moderates was still worse in the country, where they were being denounced as traitors and job-hunters. During the next few years they were very unpopular in the public —and were being shouted down at public meetings. This made the breach complete and permanent. And even when Pandit Moti Lal Nehru invited them to join the Amritsar Congress in view of the recent unfortunate happenings in the Punjab—on which question there were hardly any differences between the Moderates and the Extremists—they refused to join.

Early in 1919, there was also a split among the Home Rulers. By that time Mrs. Besant had become almost a Moderate—and her opposition to Mahatma Gandhi's proposal to start *Satyagraha* if the Rowlatt Bills became law precipitated matters. She was ousted from the presidency of the Indian Home Rule League but was elected President of the National Home Rule League by her personal followers.

VIII

Before concluding this Chapter, it is necessary to make a brief reference to the position taken up by the non-official members of the Indian Legislative Council on the Montford Report. The position of the Moderates was very strong in the supreme legislature —only two members (Messrs. Patel and Khaparde) belonged to the left wing of the Congress and three (Pandit Malaviya and Messrs. Jinnah and Mazarul Haque) to the centre group of the Congress— the remaining 22 elected and five nominated non-official members were all moderate and conservative gentlemen. Under such circumstances the fate of the resolution moved by the leader of the Moderates was a foregone conclusion.

On the 6th September, 1918, Mr. Surendranath Bannerjee moved the following resolution in the Indian Legislative Council :—

"(1) This Council thanks His Excellency the Viceroy and the Secretary of State for India for the Reforms Proposals, and recognises them as a genuine effort and a definite advance towards the progressive realization of responsible government in India.

(2) This Council recommends to the Governor-General-in-Council that a committee consisting of all the non-official members of this council be appointed to consider the Reforms Report and make recommendations to the Government of India."[1]

The first part of the resolution was opposed by Messrs. Patel and Khaparde and was also strongly criticised by Pandit Malaviya and

1. Bannerjee : A Nation in Making, p. 310.

Mr. Jinnah. The second part was supported by all Indian members but was opposed by the two European representatives of the Chambers of Commerce. Both parts of the resolution were thus passed by huge non-official majorities as was expected and the non-official members of the Council constituted themselves into a committee for the consideration of the Montford Report, with Surendranath Bannerjee as the Chairman and Srinivasa Sastri as the Secretary. In due course the committee presented its report. Writes Sir Surendranath Bannerjee :—"Into its details I need not enter. The Scheme, although a genuine and a definite advance, did not come up to our expectations. Especially was this the case in regard to one point ; no responsibility in the Central Government was provided, and we urged it with unequivocal emphasis in our report, as we did in our evidence before the Joint Committee and in all our representation."[1] As pointed out by Mr. Rushbrook Williams, "the real importance of the work of the Committee lay in the fact that the Montagu-Chelmsford Scheme was now accepted by the moderate section of elected members of the Indian Legislature as a basis for the future constitutional development of India."[2]

1. *Ibid.*, p. 314.
2. India in 1917-18, p. 60.

22

THE TRAGEDY OF AMRITSAR

I

The year 1919 is one of the most fateful years in the history of British India. For the first time after 1857 the British authority was again challenged in India 1919 on a nation-wide scale and the British officers to re-establish British prowess in the country used terrible methods of frightfulness. A British General, in order to strike terror in the hearts of the people, ordered his men to fire, till their ammunition was exhausted, over thousands of peacefully assembled citizens trapped like rats in an enclosure from which there was no escape except through the narrow passage from where the firing was directed. Several hundreds were killed and many hundreds were wounded in this terrible massacre of 13th April in Jallianwala Bagh at Amritsar, the religious metropolis of the Sikhs. Martial Law was declared in five districts of the province. Twice aeroplanes were used to overawe the people ; and the British officers in charge administered the Martial Law with ruthless barbarity. And yet in the same year was passed the Government of India Act, 1919, for the purpose of introducing responsible government in the provinces.

However, the events that made the year of 1919 of lasting importance were (1) the entry of Mahatma Gandhi in the public life of the country and his rising to all-India leadership, so to speak overnight ; and (2) the initiation of the people to mass *Satyagraha* for the redress of wrongs and grievances.

II

The year 1919 was thus a year of grave political turmoil and distress in India, particularly in the province of the Punjab. There were a number of factors that were responsible for the unfortunate situation but they may all be grouped together under three main heads—economic, natural and political.

To begin with the economic factor. While the great help that India gave in winning the Great European War—in the shape of men, money and materials—has been adequately recognised, it is

not generally realised that the people in India suffered terrible hardships on account of the War.

When the War broke out the financial position of India was a strong one and during the first year and a half the Government did not feel it necessary to increase taxation ; but in 1916 additional taxation, in the shape of increased customs duties had to be levied to meet the deficit of £2.6 millions. But, from this increase cotton goods were excluded and the duty of 3½% both on imported and Indian manufactured goods was kept as it was, on the orders from the Secretary of State, with a view to avoiding the revival of the old controversy during the War. However, next year it was necessary to increase taxation still further—because besides meeting expenses of Indian armies overseas, the Government of India felt it necessary to make a gift of £100,000,000 to the British Exchequer. The amount was raised largely by means of loans ; but, "in order to meet the consequent recurrent liabilities, additional taxation was necessary. The ordinary income-tax was supplemented by a super-tax on large incomes. A surcharge was imposed on railway goods traffic and the export duties on jute and jute goods was doubled."[1] But still more revenue was required and the Government of India again proposed the raising of the cotton duty from 3½% to 7% without increasing the excise duty. The Secretary of State found it impossible to turn down the request this time, as he himself stated it in the House of Commons in his defence, that it was both indecent and ungrateful for Britain to accept the gift of £100 millions and not allow India the means of raising additional revenue for the purpose.

The gift of £100 millions thus, while it imposed a heavy economic strain on the people and raised taxation to a very high level, also undid a wrong from which India had been suffering from several decades past. However, the burden of taxation went on increasing every year and by March 1919 it had become so great that the people began to raise their voice publicly against it and to ask for relief.

However, more imporant than the increase of taxation was the stupendous rise in prices in the country—a rise which was far greater than in the European countries. "In the case of food-grains the prices generally rose by an average of 93%.....while the increase in piece-goods was just under 190 per cent for imported goods and just over 60 per cent for Indian made goods."[2] Certain articles of common use like salt, kerosene oil and cotton cloth became very scarce owing to shortage of freight. The position was made much worse by speculation and control of available supplies by large dealers and by the tremendous expansion in the currency of the country. The Government of India had to provide currency not only to meet India's own increased needs due to her large expen-

1. Shah : History of Indian Tariffs, p. 329.
2. India in 1919, p. 63.

diture for war purposes but also because she had to finance the purchases made on behalf of Great Britain and her allies. "As a result she [India] became involved in currency difficulties of the most serious nature, which may claim to be ranked among her sacrifices in the cause of victory."[1]

The distress caused by the dislocation of economic life and by the shortage and high prices of the commodities of daily use was very great in India, both in the town and in the country, and it produced its effects in both urban and agrarian unrest. Strikes of labourers became common in industrial centres and there was looting of markets by the hard pressed people in the various parts of the country.

There were, however, two manifestations of the agrarian unrest—one in Champaran in Bihar and the other in Kaira district of Gujrat—which deserve special mention.

The agrarian problem in Champaran was of long standing but it became very acute in 1917. The European planters had invented a new method of making money as indigo manufacture had become unprofitable due to the advent of cheap synthetic dyes in the market. They took advantage of a provision in the Bengal Tenancy Act and raised the rents of the tenants by 45 to 75 per cent by agreeing to release them from the cultivation of indigo. "This enhancement, which is known as *sharabeshi*, was taken in those villages in which the villagers have a permanent or a *mokarri* interest," and it amounted to a total of about Rs. 3 lakhs a year. Where the planters had taken only temporary leases there they insisted on receiving a lump sum—*tawan*. Writes Babu Rajendra Prasad :—"The exact figures are not available, but I believe that the sums realised by all the factories on this head could be something between 16 and 20 lakhs."[2]

These enhancements of rents and the levying of *tawans* caused great distress among the tenants in Champaran who were also suffering from other illegal exactions and grievances. The planters were levying various kinds of *abwabs*[3] and were making the tenants do forced labour on inadequate wages and to lend their carts, cattle etc., on nominal charges. By 1916, the sufferings of the tenants had become unbearable. Attention was drawn to them in the Bihar Legislative Council but to no effect. Appeals were made to

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1. Rajendra Prasad : The Agrarian Problem in Champaran, Hindustan Review, July 1918, p. 52.

2. *Ibid.*, July 1918, p. 53.

3. The *abwabs* levied included *pyne-kharacha* (irrigation tax); exactions for the purpose of purchasing houses (*Ghorahi*), elephants (*Hathiahi*), motor cars (*Motorhi* or *Hawahi*) ; taxes for keeping oil or cane presses (*Kolhuawan*), weights and measures (*Batchapir*) and for boiling turmeric (*chulhiawan*) ; and also feudal charges levied at the time of succession (*Bapahi-pytahi*), widow remarriage (*Sagaura*), marriage of girls (*marwach*) and on festivals such as *Desahra* and *Chaitnomi*.

Congress leaders to intervene. Ultimately Mr. Gandhi was persuaded to go to the spot to study the conditions.

Mr. Gandhi reached Champaran in April 1917 and started to make a searching inquiry into the grievances of the tenants. A notice was served on him to leave the district, which he refused to obey and which was withdrawn under orders from the provincial government.[1] As a result of Mr. Gandhi's investigations[2] the Government decided to appoint an official committee of inquiry with Mr. Gandhi as one of the members and Sir Frank Sly as the Chairman. The Committee did its work well and presented a unanimous report, on the basis of which the Champaran Agrarian Act was passed in 1918, The *tinkathia* system was abolished, the *sharabeshi* was reduced by 20 to 25 per cent, 25 per cent of the sums realised as *tawans* were returned to the tenants, and the taking of *abwabs* was prohibited and the executive officers were empowered to take action against the offending landlords.

The Champaran Committee of Inquiry had hardly concluded its labours when Mahatma Gandhi was called back to his own province. Owing to the excess of rains in 1917 in Gujrat crops in the district of Kaira (Kheda) had fallen much below the normal. There was difference between the official and non-official estimates as to the extent of the loss suffered by the ryots and the consequent extent of the remission of revenue that was necessary. The Patidars estimated that the crop was below 4 annas and the extent of revenue suspension necessary Rs. 23 lakhs. On the other hand the amount of revenue suspended by the Collector of the district was Rs. 1,75,000 only. Repeated representations were made to the Government to do justice to the Patidars but without success. "At last all petitioning and prayer having failed," writes Mahatma Gandhi, "after taking counsel with co-workers, I advised the Patidars to resort to *Satyagraha*."[3] Thus was *Satyagraha* inaugurated for the first time in India by Mr. Gandhi.

The Kaira ryots were asked to take a pledge not to pay government revenue as the crops were below 4 annas. But if the Government agreed "to suspend the collection of the second instalment of the assessment throughout the district, such amongst us as are in a position to pay will pay up the whole or the balance of the revenue that may be due."[4]

The *Satyagraha* was started on the 28th March, 1918. Writes Sir Sankaran Nair:—"The Government rent or revenue was not paid. Properties including household utensils, milch cows, were attached,

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1. The whole story is told by Mr. Gandhi in his autobiography: My Experiments with Truth, Vol II, pp. 355 to 407.

2. "Mr. Gandhi succeeded in getting recorded statements of about 13,000 tenants, 5,000 in the full and 8,000 giving in a tabular form a summary statement of their grievances." Hindustan Review, July 1918, p. 51.

3. Gandhi: My Experiments with Truth, Vol. II, p. 430.

4. *Ibid.*, p. 431.

orders of forfeiture of lands were issued by the Government and all possible steps were taken by the revenue officials to enforce payment of revenue. About the 12th or 13th April the Commissioner himself called a meeting of all the ryots and tried to impress upon them the necessity of complying with the Government orders, threatening them with dire consequences in default, and telling them not to heed their advisers, the Home Rulers, who themselves will not suffer in person the consequence of non-payment of revenue. But ryots persisted in their attempt.[1] Even the village headmen turned against the Government. "On the 25th of April, the Government suspended the collection of revenue by ordering that only those who were in a position to pay the revenue need do so, and the rest might do it next year.....But curiously enough this order was not promulgated till the 3rd of June. Till then the attachment of property and various other proceedings continued."[2] Mr. Gandhi himself came to know of the Government decision indirectly; but, in spite of the unsatisfactory attitude of the officials, decided to call off the *Satyagraha* campaign.

Although Mahatma Gandhi was not altogether satisfied either with the results of the campaign or with the attitude of the ryots he was of the opinion that the Kheda campaign was of great indirect benefit to the nation and that it left an indelible mark on the peasants of Gujrat. "The Kheda *Satyagraha* marks the beginning of an awakening among the peasants of Gujrat, the beginning of their true political education.....public life in Gujrat became instinct with a new energy and a new vigour. The Patidar peasant came to an unforget ble consciousness of his strength. The lesson was indelibly imprinted on the public mind that the salvation of the people depends on themselves, upon their capacity for suffering and sacrifice. Through the Kheda campaign *Satyagraha* took firm root in the soil of Gujrat."[3]

III

The severe distress caused by economic factors was greatly aggravated by natural calamities such as famine, plague and influenza in 1918-19.

In 1918-19 the rainfall in India was deficient by 19 per cent. "There was no province which did not suffer from a shortage of the monsoon, either partial or complete, with the result that the crop failure of 1918-19 was one of the worst on record in the last decade."[4] As stated in "India in 1919", "despite all that the Government could do, these high prices and shortages of food caused the greatest distress and embarrassment in India. They have pressed most hardly on the poorer classes and on people living on small

1. The Indian Annual Register, 1919, Part IV, p. 83.
2. *Ibid.*, p. 84.
3. Gandhi: My Experiments with Truth, Vol. II, pp. 441-42.
4. India in 1919, p. 64.

fixed incomes in the town."[1] "As in 1917, sporadic rioting accompanied by the looting of markets, broke out among the rural population in certain parts of India."[2]

On the top of this terrible suffering came the plague and influenza epidemics. In consequence of the excessive rains, it is conjectured, plague made its appearance in a virulent form in 1917 and between July 1917 and June 1918 over 800,000 deaths took place from plague in the country. The death roll was increased still further by the prevalence of malaria and cholera in the various parts of the country. But "bad as were the general conditions of public health in India during the year 1917, those of 1918 were infinitely worse. In the month of June 1918 came the first intimation that influenza in a virulent form was attacking India."[3] The epidemic broke out in Bombay and spread all over the country causing severe distress and terrible mortality. Within four or five months over six million people died from this disease in the country.

The death figures, appalling as they are, can give at best a poor idea of the actual sufferings of the people. The medical arrangements were hopelessly inadequate to cope with the epidemic which affected from 50 to 80 per cent of the total population. The economic condition of the people was appallingly bad. "The staple foodgrains were at famine prices and the scarcity of fodder reduced the quantity of milk available"—"the price of nourishing food and also of such comforts as blankets and warm clothing was extremely high." Hence even those who ultimately recovered did not regain normal strength for a very long time. All these causes combined to make the sufferings of the people intensely acute, especially in central, northern and western portions of India.

IV

India was thus passing through terrible strain and distress during the years 1917 and 1918 and as a result there was acute discontent in the country. This was increased several fold by political causes.

To begin with, acute discontent was caused by the repressive policy of the Government, particularly in the province of Bengal. To suppress revolutionary crime action was taken against a large number of young men under the Defence of India Act. Allegations were made of the ill-treatment of the detenues and of their being kept in insanitary and dangerous places. There were three cases in particular, which aroused feelings of great indignation throughout the country and specially in Bengal. In two cases—those of Professor J. C. Ghosh and Mr. M. N. Seth—confinement in solitary cells resulted in insanity and terrible sufferings. The third case was a very peculiar one. The Superintendent of Police of Bankura was asked

1. India in 1919, p. 67.
2. India in 1917-18, p. 90.
3. *Ibid.*, p. 182.

by wire to arrest Sindhubala Devi from the house of Kamanavia Ghosh in village Shahbazpur—her name and address were found written on a slip among the paper of a "dangerous" revolutionary. The Superintendent was unable to find the house of Kamanavia Ghosh but he discovered a Sindhubala in the house of one Kunj Ghosh and arrested her. From her it was learnt that her brother's wife was also named Sindhubala. To make things sure the Superintendent of Police proceeded to the village of Debendra Ghosh and arrested the second Sindhubala as well. Both the women were taken to Bankura, where they reached at eleven in the night and were made to march on foot to the *thana*, from where they were conveyed the next day (6th January, 1918) to the jail. They were kept there for a fortnight and then released as there was no case against them as they were arrested by mistake.

The arrest of these two poor, *purda* women from two villages, in the interior of a district, without any definite information or previous inquiry, aroused an outburst of indignation and resentment among the people. Protest meetings were held at Calcutta and at otherp laces and a resolution was moved in the Bengal Legislative Council in this connection. Feelings were running high, especially in Bengal, and the Government in order to allay discontent appointed a committee of two, consisting of Mr. Justice Beachcroft and Sir Narayan Chandavarkar, to review the cases of the internees.

The Beachcroft Committee reviewed in all 806 cases (100 state prisoners dealt under Regulation III of 1818, 702 internees restrained under the Defence of India Act, and four persons confined under the Indian Ingress Ordinance)[1] and found that evidence in possession of the Government justified detention in 800 cases and recommended the release of six detenues.

However, long before the Beachcroft Report was published public opinion in India was greatly agitated over the affair of Sir Surbramaniya Aiyer's letter to President Wilson.

This letter was written in June 1917 and was sent to America through two American theosophists, Mr. and Mrs. Hotcher. The letter offered to raise ten million men for the war if freedom was promised to India. The letter contained a strong indictment of British rule. For this the Viceroy and the Secretary of State administered a personal rebuke to Sir Subramaniya Iyer, when he waited upon them in connection with the question of political reforms. This was stated in the British Parliament when the Secretary of State was questioned with regard to the action taken by him against the author of the letter. Thereupon, Sir Subramaniya issued a letter to the Press explaining his readiness to lose his pension, if necessary. As a matter of fact he actually wrote a letter to the Chief Secretary, Madras Government, renouncing his titles of K. C. I. E., and Diwan Bahadur.

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1. See Lovett : A History of the Indian National Movement, p. 196.

This created a great stir in India and the action of Sir Subramaniya was applauded in the nationalist press throughout the country.

V

Political discontent was increased by the publication of the Islington Commission Report on Public Service and the Montford Report on Constitutional Reforms. In 1918-19 there was a general feeling prevailing among the people, as stated in "India in 1919", that "since the signing of the Armistice there had been notable change in theattitude of the European community, both official and non-official, towards Indian aspirations generally and towards political reforms in particular."[1] This impression was deepened by the speeches of the provincial Governors and of the Viceroy and by the behaviour of individual Europeans towards Indians. A number of cases of racial arrogance and intolerance took place at this time. The case that roused strongest feelings of disgust and indignation among the people was that of personal assault and abuse by Mr. Clayton, I.C S., a Bihar Government high official, to Mr Hassan Imam, an ex-judge of Calcutta High Court and President of the Special Congress Session, August 1918, while travelling in a first class railway compartment. However, the proverbial last straw was furnished by the Rowlatt Report and the Rowlatt Bills. The Indian soldiers on their return found conditions exactly the reverse of those which they were led to expect by the speeches of allied statesmen. When they reached their homes in the Punjab they found famine conditions and terrible hardships and autocracy reigning supreme—and a really hot reception being prepared for them in the shape of the Rowlatt Bills. It appeared that these measures were being framed especially for them —the Rowlatt Committee had said in so many words that the return of a large number of soldiers was likely to create a situation to meet which special repressive legislation was necessary.

However, before dealing with the Rowlatt Report and the Rowlatt Bills it is necessary to draw attention to two other aggravating factors—the Muslim agitation over the *Khilafat* and the prevalence of special conditions created by the vigorous rule of Sir Michael O'Dwyer in the Punjab.

Muslim feelings in India were gravely agitated over the impending fate of Turkey and its effect upon the institution of the *Khilafat*. Indian Muslims had taken their full share in defeating the central powers, including Turkey, on the assurances given by the British statesmen that the principles of nationality and self-determination would be applied to the Turkish territories at the end of the War and that there would be no interference with the institution of the *Khilafat* by the European Powers. But after the War was over there were all kinds of rumours about the dismemberment of Turkey and the placing of the countries containing the holy places

1. "India in 1919", p. 23.

of the Muslims under the hegemony of non-Muslim Powers, which involved the whole question of the *Khilafat*. All this talk was a source of grave anxiety to the Muslims in India and a direct contributory cause of discontent among them. Mr. Montagu regarded the Muslim anxiety over the defeat of Turkey as the first political cause of the unfortunate happenings in India.[1]

However, public opinion in India attached greater importance to another cause—the discontent created by the vigorous rule of Sir Michael O'Dwyer in the Punjab.

The Lieutenant Governor of the Punjab, during the Great War, was a firm believer in strong, personal rule. According to him the main business of a government was to preserve "law and order". He had no faith in executive councils or political reforms. He had no sympathy with the higher political aspirations of the people. He did not like the educated classes who were always clamouring for more positions and powers ; and he never lost an opportunity of belittling their importance. During the War he ruthlessly suppressed all political life in the province and prohibited the entry of such respected leaders as Lokamanya Tilak and Mr. B. C. Pal. And his great ambition was to outshine all provincial heads in supplying men, money and materials for winning the War. Unfortunately, the methods used for the purpose in many cases amounted almost to conscription and caused great hardships and sufferings to the people. As Mr. Coldstream, Sessions Judge of Muzaffargarh, wrote in a judgment—the methods used "to raise the war loan and to find recruits" "were frequently unauthorised, objectionable, oppressive and opposed to the intentions of the Government. In remote districts, they were found intolerable by the people."[2] In the Shahpur district matters assumed a still more serious form—where the over-zealous Tahsildar, Syed Nadir Hussain, who used very questionable[3] and tyrannical methods, which according to the note of Sir Michael himself, "amounted almost to conscription," was murdered by the infuriated people. In all districts objectionable methods were followed to make up the quota of recruits and War loan and other War funds allotted to each district. And, what was still worse, the people were not permitted even to voice their grievances. All such expressions were branded as "sedition" and suppressed by an iron hand by the Government of Sir Michael. Wrote Mrs. Besant in her book : "The Future of Indian Politics" in 1922, when she had become a Moderate :— ".....the harsh and oppressive rule of Sir Michael O'Dwyer, his press-gang methods of recruitment, his forced War loans, and his cruel persecution of all political leaders kept the

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1. Speech of Mr. Montagu on 22nd May, 1919, in the House of Commons. The Indian Annual Register, 1919, Part II, p. 123.

2. Quoted in the Congress Punjab Inquiry Committee Report Vol., I, p. 18.

3. At the murder trial, the Revenue Assistant stated :—"I have heard a complaint that he made men to stand naked in the presence of their women-folk." *Ibid*, p. 19.

covered-up embers of resentment alive, and ready to break into flame. At the Special Congress of 1918, in Bombay, Punjab delegates told us how they were living over a volcano, which any act of exceptional tyranny might cause to burst out. We were not therefore surprised when open trouble occurred in 1919 in this very province."[1]

VI

The immediate cause of the popular outburst in 1919 was the passing of the Rowlatt or the Black Bill. The Indian Sedition Committee, presided over by Mr. Justice S. A. T. Rowlatt, was appointed at the end of 1917 and submitted its report in April 1918. It had held its sittings *in camera* and examined the evidence submitted by the Government for the enactment of special legislation for dealing with revolutionary crime after the Defence of India Act ceased to operate. Mr. Montagu had warned Mr. Justice Rowlatt of the dangers of such special legislation and of accepting the scheme already prepared by the Government of India in that connection. Writes Mr. Montagu in his Indian Diary:—"I explained to him that Government by means of internment and police was naturally a delightful method which built up only trouble probably for our successors and that I hoped he would remember what was parliamentarily defensible in listening to the plan which had been prepared for him by the Government of India."[2] The Rowlatt Committee, however, came to the conclusion that the ordinary criminal law was not adequate to deal with cases of revolutionary crime, and recommended two kinds of special legislation—punitive and preventive—to meet the situation at the end of the War. The Government of India framed two Bills to give effect to the recommendations of the Rowlatt Committee and in spite of universal popular protest and warnings decided to proceed with their enactment. Only one of them ultimately became law but it led to a country-wide agitation, the like of which had never been witnessed before in India.

The Anarchical and Revolutionary Crimes Act, 1919, to give in its official title, has been described both as a "Black Act" designed to suppress popular liberties and political life in India, and also as "aimed at the purification of politics"[3] passed "to safeguard the lives and property of the people against.....outbursts of anarchy and revolution."[4]

The Act was divided into five parts. Part I was punitive, Parts II and III were preventive. Part IV brought persons already under executive control within the purview of the Act, and Part V

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1. Besant : The Future of Indian Politics, p. 236.
2. Montagu : An Indian Diary, p. 156.
3. Speech of Sir William Vincent of February 6, 1919. See Punjab Unrest : Before and After, p. 5.
4. Speech of Sir Michael O'Dwyer of April 10, 1919. Pearey Mohan · The Imaginary Rebellion and How it was suppressed, p. 13.

provided for the continuation of the proceedings till their conclusion after the Act, or any part thereof, had ceased to apply in a paticular area.

Part I of the Act provided "for the speedy trial of offences .....without commitment and with no right of appeal."[1] A Special Court, consisting of 3 High Court Judges was to be constituted, if Part I was applied to a province, which could meet at any place and *in camera*. The Court could admit evidence not admissible under the Indian Evidence Act. The decision of the majority of judges was final. However, unanimity of opinion among the judges was required in case of a sentence of death.

Part II empowered a Provincial Government to order any person who was believed to be concerned in any "movement likely to lead to the commission of offences against the State", "to furnish security or to notify his residence, or to reside in a particular area or to abstain from any act specified or finally to report himself to the police."[2] Such an order was to be made, in the first instance, for one month but could be extended to one year on the report of an Investigation Committee of three persons, which the Government was required to appoint in each case. The Committee was to meet *in camera*, the person concerned could appear and offer an explanation but had no right to be represented by a lawyer.

Part III was still "more drastic". It provided for the search of a place and the arrest of a suspected person without warrant and his confinement "in such place and under such conditions and restrictions as it may specify."[3] The period was "limited to one year in the first instance and to three years in all." The safeguard of an inquiry by an investigating authority was provided as in Part II.

Such were the main provisions of the Act, which was considered absolutely necessary by the Government of India to deal effectively with the anarchical and revolutionary crimes in India. The revolutionary movement was responsible for no less than 311 offences or attempts at offences involving 1,038 persons between 1909 and 1918. The Defence of India Act had brought down the number to 10 in one year—and "during the last quarter of 1918 there were no revolutionary outrages at all."[4]

The effectiveness of the measure was not questioned by the non-official members of the Indian Legislative Council but they objected strongly to arming the executive in times of peace with tremendous powers of suppressing the whole political life in the country and of depriving suspected persons of the right to an open trial, to the help of a legal advisor, and to the safeguards provided by the Evidence Act and other laws of the land. They pointed to

1. Punjab Unrest : Before and After, p. 8.
2. *Ibid.*, p. 4.
3. Section 34 (1) of the Act, India in 1919, p. 213.
4. Punjab Unrest : Before and After, pp. 2 and 3.

the vast powers already existing which could deal effectively with revolutionary crime and suggested that the real remedy was not ruthless repression but political reform—in the words of Lord Morley "the best way to get rid of Sinn Fein was to grant self-government to Ireland." Appeals were addressed to the government by all the non-official speakers "to realise the situation as it has been growing during the last few days and as it threatens to grow in the future. My Lord, already there is a wave of indignation in the country ; from one end to the other protest meetings are being held." And added Sir Tej Bahadur Sapru :—"My Lord, you are going to throw the country into a whirlpool of agitation, such as it has never witnessed before....."[1] But in spite of the united opposition of all the non-official members—four of whom resigned in protest, the Government enacted the measure with consequences which were universally deplored.

VII

While the discussions were proceeding over the Rowlatt Bill in the Indian Legislative Council Mahatma Gandhi was writing to the Viceroy making it clear "that the Government's action left me no other recourse except to resort to *Satyagraha*."[2] The Satyagraha Sabha was formed at Bombay and the Satyagraha pledge was drafted and taken by its members. "The decision to start *Satyagraha* with the vow was communicated to the public for Mahatma Gandhi in a letter to the Press. The vow ran as follows :—

"Being conscientiously of opinion that the Bills.....are unjust, subversive of the principle of liberty and justice and destructive of the elementary rights of individuals...we solemnly affirm that in the event of these becoming law and until they are withdrawn, we shall refuse civilly to obey those laws and such other laws as a committee to be hereafter appointed may think fit and we further affirm that in this struggle we will faithfully follow the truth and refrain from violence to life, person or property."[3]

However, like the warnings of the non-official members, this decision of the Satyagraha Sabha had no effect on the Government and the Bill was passed on 18th March, 1919 by official votes and became law on March 21st. Mahatma Gandhi was then in Madras. He was perplexed as to how he should offer *Satyagraha*, when the idea came to him in a dream, which he communicated to his host, Mr. Rajagopalachari, the next morning :—"The idea came to me last night in a dream that we should call upon the country to observe a general *hartal*. *Satyagraha* is a process of self-purification, and ours is a sacred fight, and it seems to me to be in the fitness of things that it should be commenced with an act of self-

1. Punjab Unrest : Before and After, p. 55.
2. Gandhi : My Experiments with Truth, Vol. II, p. 482.
3. Punjab Unrest ; Before and After, p. 34.

purification. Let all the people of India, therefore suspend their business on that day, and observe the day as one of fasting and prayer....."[1]

The idea was welcomed by Mr. Rajagopalachari and others and was given to the public in a letter by Mahatma Gandhi. "The date of the *hartal* was first fixed on the 30th March, 1919, but was subsequently changed to 6th April." "The whole of India from one end to the other, towns as well as villages, observed a complete *hartal* on that day,"[2] *i.e.*, the 6th April, peacefully and successfully.

However, there were a few places, which learnt of the alteration of the date of the *hartal* too late, which observed it on the 30th March as well. Delhi was one of those places; and it was there that unfortunate occurrences first took place.

The 30th March was observed by the people in Delhi as a day of fast and *hartal*. According to the Hunter Commitee Report, scuffle ensued as a result of the crowd insisting upon the closing of a railway refreshments stall. The railway police intervened and arrested two men from the crowd. This infuriated the people, who refused to disperse and insisted upon the return of the men. There were also brick-bats thrown on the police. Ultimately the mob was fired upon and forced into the adjoining Queen's Gardens. The crowd thereupon collected in front of the Town Hall, where it was again considered necessary to fire. "As a result of this the total number of persons killed by the firing on this day increased to 8. Only a dozen or so of the wounded persons came to hospital for treatment but the number of the wounded on this day would exceed this figure substantially."[3] There was no further trouble and the meeting in the afternoon in the People's Park passed off quietly. The *hartal* on the 6th was celebrated peacefully. However, there was prolonged *hartal*, from the 10th to the 17th, as a result of Mr. Gandhi's arrest. In an attempt to get the shops opened by police pickets there was a clash between the police and the mob in the Ballimaran Street on the 17th. "The Police were forced to fire in self-protection. About 18 people were reported as wounded with buckshot, two of whom subsequently died."[4]

After the happenings on the 30th March, Mahatma Gandhi was called to Delhi by the local leaders. He agreed to come after the *hartal* of the 6th April. On the night of the 7th, he, therefore, left Bombay for Delhi. In the meantime, the Government of India, in consultation with the Lieutenant-Governor of the Punjab and the Chief Commissioner of Delhi, decided to prohibit the entry of Mr. Gandhi into the Punjab and Delhi and issued an order directing him to remain in the Bombay Presidency. The order was served

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1. Gandhi : My Experiments with Truth, Vol. II, p. 486.
2. *Ibid.*, p. 487.
3. Disorders Inquiry (Hunter) Committee Report, p. 3.
4. *Ibid.*, p. 4.

upon him before Palwal station, which he refused to obey. So, he was arrested at Palwal and was sent back to Bombay under police escort.

The news of Mahatma Gandhi's arrest reached Ahmedabad, where he had made his home and had built his *Ashram* and where he was loved and worshipped like a god—on the morning of the 10th. It spread rapidly and caused great excitement. A *hartal* was declared. Trouble arose in forcing two Europeans to leave their conveyance. There was a serious clash but the situation was tactfully handled by Mr. Chattfield, the district magistrate. The next morning, the people were infuriated to hear the rumour of Miss Anasuya Sarabhai's arrest and the mill-hands got out of control and committed acts of incendiarism and violence. Crowds had to be fired on several times and a military proclamation had to be issued on the 12th morning. However, Mahatma Gandhi and Miss Anasuya Sarabhai arrived[1] on the 13th ; and were allowed to help in restoring the order. On the 14th, the proclamation was withdrawn. "Mr Gandhi addressed an enormous meeting of people. He upbraided them for their violence, and exhorted them to resume their lawful occupations. His address had a very beneficial effect and the disturbances at Ahmedabad practically came to an end on the 14th April."[2]

"During the disturbances there were two fatal casualties, on the side of law and order.....Among the rioters, 28 are known to have been killed and 123 wounded ; it is probable that there were more.....Telegraph wires were cut at eight places in Ahmedabad and at fourteen places outside. The value of the property destroyed by the rioters at Ahmedabad was approximately nine and a half lakhs of rupees..... probably the main reason of this was that the rioters had been moved by their personal feelings towards Mr. Gandhi and Miss Anasuya Sarabhai. The sight of these among them at liberty, combined with Mr. Gandhi's reproaches, removed all motive for a continuance of disorder."[3]

In the Punjab there was no trouble till the noon of the 10th April. Meetings had been held, especially at Amritsar and Lahore, in connection with the Rowlatt legislation. *Hartal* was observed successfully and peacefully all over the province on the 6th April. At Amritsar it was also observed on the 30th March. There was grave discontent in the province, there was some excitement as well. There was agitation against the Rowlatt Act and great resentment was being felt at the attitude the Lieutenant-Governor had adopted towards political reforms and the educated classes. But there was no revolutionary movement—it had been suppressed in 1916 ; and the leaders of the people were all believers in peaceful, constitutional

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1. From Palwal Mahatma Gandhi was taken to Bombay and set free. The rumour of Miss Sarabhai's arrest was false.

2. The Disorders Enquiry Committee Report, p. 13.

3. *Ibid.*, p. 13.

methods of agitation. But the Government of Sir Michæl O'Dwyer, was bent upon suppressing all kinds of agitation and political life in the province. In his speech before the Punjab Legislative Council on the 7th April, 1919, Sir Michael O'Dwyer, while praising the Punjabees, uttered a serious threat to the public leaders. He said :— "The Government of this Province is and will remain determined that public order, which was maintained so successfully during the time of War, shall not be disturbed in times of peace. Action has, therefore, already been taken under the Defence of India Act against certain individuals at Lahore and Amritsar.....The recent puerile demonstrations against the Rowlatt Act in both Lahore and Amritsar.....indicate how easily the ignorant and the credulous people.....can be misled. Those who only want to mislead them incur a serious responsibility .....Those who appeal to ignorance rather than to reason have a day of reckoning in store for them."[1]

This was no empty threat as the events of the next few days proved.

VIII

Amritsar had observed complete and peaceful *hartals* both on the 30th March and the 6th April, in spite of the fact that orders under the Defence of India Act, not to address public meetings, had been served on the two local leaders—Drs. Satyapal and Kitchlew. The celebration of the *Ram Noumi* festival, with a huge procession and fraternization among the Hindus and the Muslims, also passed off peacefully on the 9th April. "It is certain," writes the Hunter Committee, "that the day passed off without any hostility being offered to Europeans." The Deputy Commissioner himself got caught in the crowd and witnessed the procession from the verandah of the Allahabad Bank. He says "as a rule they were very civil, every car in the procession stopped in front of me, and the band played God save the King....." On the same day the Government issued orders for the deportation of Dr. Satyapal and Kitchlew from Amritsar and their internment at Dharamsala under the Defence of India Act. On the 10th morning at ten they were quietly removed in a car to Dharamsala and the local executive authorities made military and police preparations to prevent crowds from entering the civil station. At about 11-30 the news of the deportations spread in the city. *Hartal* was declared and the people marched in a procession towards the bungalow of the Deputy Commissioner to demand the release of the two leaders. According to the facts related by the Hunter Committee, "the mob had not armed themselves with sticks or lathis"[2] and did not molest or take any "notice of Europeans whom it met on the way."[3] The crowd was checked at the railway level crossing and was forced back towards the city. In doing so resort was had to firing twice. The

1. The Congress Punjab Inquiry Report, pp. 6 and 7.
2. *Ibid.*, pp. 6 and 7.
3. The Disorders Inquiry Committee Report, p. 22.

mob became infuriated and violent. It entered upon a mad course of destruction, revenge, murder, arson, incendiarism, etc., and brutally assaulted any European, man or woman, it came across. It sacked the National and the Alliance Banks,[1] set fire to the bank buildings, killed the European manager, etc., and looted the godowns. The Town Hall and other public buildings were burnt. Telegraph wires were cut and Miss Sherwood, a missionary lady was brutally assaulted and left as dead in a lane where she was picked up later by some Hindus and taken to the hospital. Troops were rushed into the city and the mobs melted away by the evening. "The total number of persons killed on the 10th by fire of the troops was approximately ten ; the number of the wounded must be greater."[2]

On the 11th the people were allowed to arrange for the funeral of the dead persons. There was a big procession which passed off quietly. On the same evening General Dyer arrived and took command of the troops in the city. On the 12th many arrests were made and a proclamation was issued prohibiting all gatherings and meetings. The Hunter Committee writes :—"It does not appear what steps were taken to ensure its publication.....From an examination of the map showing the different places where the proclamation (which was in English) was read it is evident that in many parts of the city the proclamation was not read."[3] On the other hand it had been announced on the evening of the 12th that there would be a public meeting in the Jallianwala Bagh on the 13th at 4-30 p.m. General Dyer took no measures to prevent the holding of the meeting but decided to reach the place soon after the meeting had begun with armoured cars and troops, and without giving any warning, ordered the troops to fire till the ammunition was exhausted. This is how Sir Valentine Chirol, the well-known British publicist, has described the scene :—

"One cannot possibly realise the frightfulness of it until one has actually looked upon on the Jallianwala Bagh– once a garden, but in modern times a waste space frequently used for fairs and public meatings. about the size perhaps of Trafalgar Square, and closed in almost entirely by walls above which rise the backs of native houses facing into the congested streets of the city. I entered by the same narrow lane by which General Dyer.....entered with about fifty rifles. I stood on the same rising ground on which he stood, when without a word of warning, he opened fire at about 100 yards' range upon a dense crowd, collected mainly in the lower and more distant part of the enclosure around a platform from which speeches were being delivered. The crowd was estimated by him at 6,000, by others at 10,000 and more, but practically unarmed, and all quite defenceless. The panic-stricken multi-

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1. The Chartered Bank escaped much damage and its European Manage and Assistant Manager were rescued by the police from their hiding places.
2. The Disorders Inquiry Committee Report, p. 29.
3. *Ibid.*, p. 30.

tude broke at once, but for ten consecutive minutes he kept up a merciless fusillade—in all 1650 rounds—on that seething mass of humanity, caught like rats in a trap, vainly rushing for the few narrow exits or lying flat on the ground to escape the rain of bullets, which he personally directed to the points where the crowd was thickest. The "targets" to use his own words, were good, and when at the end of those ten minutes, having almost exhausted his ammunition, he marched his men off by the way they came. He had killed, according to the official figures, only wrung out of Government months later, 379[1] and he left about 200[1] wounded on the ground, for whom, again to use his own words, he did not consider it his 'job' to take the slightest thought."[2]

Sir Valentine comments :—"But for General Dyer's own statement before the Hunter Commission, one might have pleaded that, left to his own unbalanced judgment by the precipitate abdication of the civil authority, he simply 'saw red'.....But, on his own showing, he deliberately made up his mind while marching his men to Jallianwala, and would not have flinched from still greater slaughter if the narrowness of the approaches had not compelled him to leave his machine guns behind. His purpose, he declared, was to strike terror into the whole of the Punjab."[3]

IX

It is not necessary to describe here in detail the unfortunate occurrences that took place in other parts of the Punjab between

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1. Write the Congress Inquiry Committee :—"In the matter of the death roll, it is interesting to note that according to the Government's own showing they did not commence investigating the figures before 29th August, *i.e.*, four months after the tragedy. Mr. Thompson then announced that not more than 290 had died. Now they have practically accepted the *Seva Samiti's* figures, *viz.*, 500, which are based on actual tracing and represent the minimum. The exact figure will never be known, but after careful investigation, we consider that Lala Girdhari Lal's computation of 1,000 is by no means an exaggerated calcualtion" (page 57). Lala Girdhari Lal was an eye-witness of the unfortunate happenings and was the first to go into the *Bagh* after the firing had ceased.

2. It may be of value to quote the account given by a reliable eye witness—Lala Girdhari Lal, the Deputy Chairman of the Punjab Chamber of Commerce—of the Jallianwala Tragedy. He watched the scene from a house overlooking the *Bagh*. He says :—"I saw hundreds of persons killed on the spot. The worst part of the whole thing was that firing was directed towards the gates, through which the people were running out. There were small outlets, 4 or 5 in all, and bullets actually rained over the people at all these gates, and..... many got trampled under the feet of the rushing crowds and thus lost their lives. Blood was pouring in profusion. Even those who lay flat on the ground were shot. No arrangements were made by the authorities to look after the dead or wounded.....I then gave water to the wounded and rendered such assistance as was possible...I went round the place and saw almost everybody lying there. There were heap of them at different places...The dead bodies were of grown up people and young boys also. Some had their heads cut open, others had eyes shot, and nose, chest, arms or legs shattered.....I think there must have been over 1,000 dead bodies in the garden then.....I saw people were hurrying up and many had to leave their dead and wounded because they were afraid of being fired upon again after 8 p. m." Pp. 56-57 of the Congress Inquiry Committee Report.

3. Chirol : India : Old and New, pp. 177-78.

the 10th and the 15th April. They are narrated in the Report of the Hunter Committee and elsewhere.[1] Here it is only necessary to mention briefly the happenings at La'hore, Kasur and Gujranwala.

At Lahore there was a *hartal* on the 10th after the news of Mahatma Gandhi's arrest was received. A procession was formed "with a black flag as a sign of mourning and proceeded along Anarkali Bazar to the Mall."[2] The procession was checked from going up the Mall and asked to disperse. It is said that the people were very excited; they refused to disperse and were fired upon. The crowd was pushed towards Lahori Gate, where it was again asked to disperse and on refusal was fired upon. On the 14th, the popular leaders, Pandit Ram Bhaj Dutt and Lalas Harkishan Lal and Duni Chand were deported; hence the *hartal* continued from the 10th to the 17th April. On the 18th the shopkeepers were forced to open their shops under martial law. There were no acts of mob violence at Lahore.

It was however different at Kasur, where the mob became violent and killed two Europeans and did some damage to public buildings, railway property and to lines of communication. On the 11th the *hartal* began and continued the next day. There is "a very unruly element of the menial, leather-workers and butcher class in Kasur,"[3] and they organised a liberty funeral procession on the 12th morning. The procession proceeded to the railway station and became more and more excited. The Report of the Punjab Government states:—Up to this time the intention had merely been to make a violent demonstration. Arrived at the station, the crowd did considerable damage by breaking doors and throwing stones at windows, but did not penetrate the station or interfere with the permanent way. It then commenced to turn away, but at the direct incitement of some of its leaders, surged back and commenced a more serious work of destruction. It burn an oil-shed, damaged the signal and telegraph wires, smashed a quantity of furniture and looted the ticket office."[4] The crowd was being persuaded to disperse by some of the local leaders, who had reached the station by that time, when a train with some European passengers arrived. The crowd attacked the Europeans. Most of them, however, were saved—they were persuaded to leave the train and take shelter with some Indians; but two warrant officers refused to leave the train and tried to protect themselves by firing with their revolvers. They were stoned and surrounded by the mob and were brutally beaten to death. The police arrived, resorted to firing and dispersed the crowds.

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1. See pp. 36 to 73 of the Disorders Inquiry Committee Report and Pearey Mohan: The Imaginary Rebellion and How it was Suppressed, pp. 55 to 94, and also the Congress Punjab Inquiry Report, 1919-20, pp. 45 to 155.

2. The Disorders Inquiry Committee Report, p. 39.

3. Quoted from the Punjab Government Report by Pearey Mohan: The Imaginary Rebellion and How it was Suppressed. p. 69.

4. *Ibid.*, p. 70.

There was also a serious attack at Gujranwala. This occurred on the 14th when the people were incensed by the display of slaughtered calf and pig on two bridges on each side of the railway station. The people believed "that the calf (and the pig also) had been killed and exposed on the bridge by the police in order to create bad blood between Hindus and Mohammedans."[1] The crowd set fire to the bridges. At the Kachi bridge there was firing by the police, some persons were wounded. The crowds got out of control and entered on a mad course of destruction of public buildings and the lines of communications. They set fire to the *tahsil*, the dak bungalow, the district court, the church, and the railway station. At about 3 in the afternoon aeroplanes arrived from Lahore and bombed the city. Later troops also arrived. Writes the Hunter Committee :—"Colonel O'Brien, the Deputy Commissioner of Gujranwala informed us that so far as could be ascertained the total casualties in Gujranwala on 14th April, shot by the police, were 11 killed and 27 wounded."[2]

X

Martial Law was declared in five districts of the Punjab between the 15th and the 24th April 1919. It was withdrawn generally on the 11th June except on railway lands from where it was finally withdrawn on the 25th August.

The Hunter Committee were unable to agree on the necessity for the declaration of Martial Law and for its continuance for such a long period or on the severity of martial law administration. Indian opinion, however, was unanimous in condemning the manner in which the situation was handled in the Punjab in 1919 and the way martial law was administered in the province. Some of the martial law administrators distinguished themselves by its rigorous enforcement and by acts of cruelty and barbarity. It will, however, serve no useful purpose to describe here the individual acts of cruelty perpetrated by some of the martial law administrators. Three representative opinions—the first by a British Publicist considered hostile to Indian aspirations, Sir Valentine Chirol ; the second by the Secretary of State for India, Mr. Montagu ; and the third of an Indian Moderate statesman, Sir Sivaswamy Iyer, President of the Moderates Conference, 1919, and opposed to the method of *Satyagraha*, are given here. Between them they give an accurate picture of the martial law administration in the Punjab in 1919. Writes Sir Valentine Chirol :—

"Then two days after—not before—Jallianwala came the formal proclamation of martial law in the Punjab, and though there were no more Jallianwalas, what but racial hatred could result from a constant stream of petty and vindictive measures en-

1. The disorders Inquiry Committee Report, p. 48.
2. *Ibid.*, p. 52.

forced even after the danger of rebellion, however real it may at first have seemed, had passed away ? Sir Michael O'Dwyer protested, it is true, against Dyer's monstrous "crawling order"[1] and it was promptly disallowed. But what of many other "orders" which were not disallowed ? What of the the promiscuous floggings and whippings,[2] the indiscriminate arrests[3] and confiscations, the so-called 'fancy punishments' designed not so much to punish individual "rebels" as to terrorise and humiliate ? What of the whole judicial or quasi-judicial administrations[4] of martial law ?"[5]

Even the Secretary of State for India in his dispatch on the Hunter Committee Report felt constrained to remark :—"There is one question with regard to which it is impossible to avoid the conclusion that the majority of Lord Hunter's Committee have failed to express themselves in terms which unfortunately the facts not only justify but necessitate.....It is unnecessary to recapitulate the instances which the Committee have enumerated in detail in both their reports, nor would any useful purpose be served by attempting to assess with a view to penalties, the culpability of individual officers who were responsible for those orders.....but His Majesty's Government must express strong disapproval of these orders and punishments.....The instances cited by the Committee give justifiable ground for the assertion that the administration of martial law in the Punjab was marred by a spirit which prompted, not generally but unfortunately not uncommonly, the enforcement of punishments and orders calculated, if not intended, to humiliate Indians as a race, to cause inconvenience amounting on occasions to injustice and to alter the standards of propriety and humanity which the inhabitants.....have a right to demand of those set in authority over them."[6]

Speaking as President of the All-India Moderates Conference, 1919, Sir Sivaswamy said :—"Let us turn our eyes to some of the facts disclosed in the evidence of the principal European witnesses

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1. Reference has been made above to the assault on Miss Sherwood at Amritsar on the 10th April. Some days after, *i.e.*, on the 19th April, General Dyer issued an order that those who pass the lane, where Miss Sherwood fell, should be made to crawl—"go on all fours". "The process consisted in the persons lying flat on their belly and crawling exactly like reptiles." The order was withdrawn on the 26th.

2. The Minority Report of the Hunter Committee records 258 ordinary cases of flogging and whipping—there were other special cases also. "The normal procedure adopted was to strip the person to be whipped and to tie him to a frame-work and then lash him." Each person was given from 5 to 30 stripes (p. 162, Disorders Inquiry Committee Report).

3. In all 789 persons were arrested, who were never brought to trial." *Ibid.*, p. 166.

4. Out of 108 death sentences, only 23 were maintained.....out of 265 sentences for transportation only 2 were maintained, when they were later revised by the Government. The figures of original punishment give some idea of the administration by martial law courts.

5. Chirol : India : Old and New, p. 179.

6. Punjab Unrest : Before and After, p. 159.

(before the Hunter Committee). The wholesale slaughter of hundreds of unarmed men at Jallianwala Bagh without giving the crowd an opportunity to disperse, the indifference of General Dyer to the condition of hundreds of people who were wounded in the firing of machine-guns, into crowds who had dispersed and taken to their heels, the flogging of men in public, the order compelling thousands of students to walk 16 miles a day for roll-calls, the arrest and detention of 500 students and professors, the compelling of school children of 5 to 7 to attend on parade to salute the flag, the order imposing upon owners of property the responsibilities for the safety of the martial law posters stuck on their properties, the flogging of a marriage party, the censorship of mails, the closure of the Badashahi mosque for six weeks, the arrest and detention of people without any substantial reason especially of people who had rendered services to the State.....the flogging of six of the biggest boys in the Islamia school simply because they happened to be school boys and big boys, the construction of an open cage for the confinement of arrested persons, the invention of novel punishments like the crawling order, the skipping order.....the hand-cuffing and roping together of persons and keeping them in open trucks for 15 hours, the use of aeroplanes and Lewis guns.....against unarmed citizens, the taking of hostages and the confiscation and destruction of property for the purpose of securing the attendance of absentees, the handcuffing of Hindus and Mohammedans in pairs with the object of demonstrating the consequences of Hindu-Muslim unity, the cutting off of electric and water supplies from Indian houses, the removal of fans from Indian houses and giving them for use to Europeans, the commandering of all vehicles owned by Indians and giving them to Europeans for use, the feverish disposal of cases with the object of forestalling the termination of martial law, are some of the many incidents of the administration of martial law which created a reign of terror in the Punjab and have shocked the public."[1] And even Mrs. Besant, who had condemned the action of the crowds at Amritsar in strong language[2] and had on insufficient evidence characterised the mob excesses in the Punjab (on the 18th April) as the work of revolutionaries,"[2] felt it necessary to write on the 21st December 1919 :—"I have been shocked to read the evidence given by the military authorities before the Hunter Committee. Nothing more than is recorded out of their own mouths was done by the Germans in Belgium."[3]

XI

As the news of the terrible events in the Punjab percolated to other parts of India after the withdrawals of martial law and cen-

1. The Indian Annual Register, 1920, p. 397.

2. She had written to the *Times of India* :—"the cutting of telegraph wires, the derailment of troop trains, the burning of railway station, the attack on banks, the setting free of jail birds, are not the action of *Satyagrahis* nor even of casual riotors, but of revolutionaries."

3. Disorders Inquiry Committee Report, p. 125.

sorship, there was an outcry against the administration of Sir Michael O'Dwyer and the Government of Lord Chelmsford. There was a demand in the nationalist press for the recall of Lord Chelmsford and the impeachment of Sir Michael and those responsible for the oppressive administration of martial law. The people were shocked and indignant and there was terrible discontent in the country. The Moderate leaders also attacked the Government, both in regard to its policy of frightfulness in the Punjab and in regard to its reactionary attitude towards the question of political reforms. Writes the author of "India in 1919" :—"The general criticism was levelled against Government, not merely in the Nationalist but also in the Moderate press that the reforms scheme as originally conceived had been whittled down....."[1]

However, the national protest was voiced by India's greatest poet, Sir Rabindranath Tagore, through his dignified letter renouncing his knighthood. He wrote :—

".....The accounts of the insults and sufferings undergone by our brothers in the Punjab have tickled through the gagged silence reaching every corner of India and the universal agony of indignation roused in the heart of our people has been ignored by our rulers, possibly congratulating themselves for imparting what they imagine salutary lessons.....knowing that our appeals have been in vain and that the passion of vengeance is blinding, the noble vision of statesmanship in our Government, which could so easily afford to be magnanimous as befitting its physical strength and moral traditions, the very least I can do is to take all consequences on myself in giving voice to the protest of the millions of my countrymen surprised into a dumb anguish of terror.

"The time has come when badges of honour make our shame glaring in their incongruous context by humiliation, and I, for my part, wish to stand shorn of all special distinction by the side of those of my countrymen who, for their so-called insignificance, are liable to suffer a degradation not fit for human beings, and these are the reasons which have painfully compelled me to ask Your Excellency, with due deference and regret, to release me of my title of knighthood."[2]

The relinquishing of the title by Poet Rabindranath created profound effect on the minds of Englishmen and made the British Government push on work in connection with Montford Reforms. In the meantime more facts were being brought to light by the indefatigable efforts of Pandit Madan Mohan Malaviya and his co-workers. Pandit Malaviya framed 92 searching questions[3] on the unfortunate events in the Punjab during April, May and June 1919

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1. India in 1919, p. 41.
2. The Indian Annual Register, 1920, pp. 50-51.
3. The questions are given in full in "Punjab Unrest : Before and After." Appendix, pp. 1 to 23.

and gave notice of them to the Secretary, Indian Legislative Council; but they were disallowed by the Governor-General. He then moved a resolution for the appointment of a Royal Commission in place of the Committee of Inquiry announced by the Viceroy in the opening speech, which was to report to the Government of India, for the reason that the Government of India was itself involved in the affair. But the resolution of Pandit Malaviya was rejected and the Disorders Inquiry Committee was appointed with Lord Hunter as Chairman, Mr. Justice Rankin, Mr. Rice, Major-General Sir George Barrow, Sir Chimanlal Setalvad and Sahibzada Sultan Ahmad as members. To these were later added Pandit Jagat Narain and Mr. Thomas Smith. The Committee began its work in October 1919 and reported in March 1920. The Congress and many other non-official persons withheld co-operation from the Hunter Committee owing to its narrow terms of reference and denial of adequate opportunities to consult the Punjab leaders who were in jail.

However, before the Committee could begin work, the Government of India rushed through the Indian Legislative Council the Indemnity Bill[1] to indemnify the officers into whose conduct the Hunter Committee was asked to inquire. The non-official members suggested postponement in view of the appointment of the Hunter Committee. Pandit Madan Mohan Malaviya delivered an historic speech on the occasion, lasting for nearly five hours and containing a full narrative of the events and a discussion of the whole legal and constitutional position, in support of the amendment for postponement. But the Government passed the Bill with official votes against popular protests both inside and outside the Council.

However, the British Government in order to calm the atmosphere hurried the Reforms Bill through the Parliament and a Royal Proclamation signifying His Majesty's assent to the Bill was issued on the very eve of the session of the Indian National Congress, which met at Amritsar at the end of December, 1919.

The Royal Proclamation announcing the Reforms appealed for co-operation and reconciliation and directed the Viceroy to exercise full measure of lemency to political offenders. It proceeded :— "It is my earnest desire at this time that so far as possible any trace of bitterness between my people and those who are responsible

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1. The Indemnity Act, 1919, was a short Act of 6 small sections, Section 2 "indemnifies any officer of Government, whether civil or military, from any action, civil or criminal, in respect of any matter or thing done for the purpose of maintaining or restoring order." Section 3 provided that "a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof" for purposes of Section 2. Section 4 provided for "the retention in custody of persons convicted by summary courts" under martial law. Section 5 provided for the "payment of compensation where the property of any person has been commandeered by Military Authorities."

See pp. 159-160 of "Punjab Unrest : Before and After" for the Indemnity Act of 1919 and also pp. 161-174 for speech of the Home Member explaining the provisions and the Government position.

for my government should be obliterated .....A new era is opening. Let it begin with a common determination among my people and my officers to work together for a common purpose. I, therefore, direct my Viceroy to exercise in my name and on my behalf my Royal clemency to political offenders in the fullest measure which in his judgement was compatible with public safety....."[1]

The declaration of political amnesty[2] had a profound influence in calming the atmosphere and the immediate release of the leaders, some of whom were able to reach Amritsar in time to join the Congress Session, had very beneficial results.

The Congress of 1919 ultimately passed the following resolution on the Reforms Act :—

"(*a*) That this Congress reiterates its declaration of last year that India is fit for full responsible government and repudiates all assumptions and assertions to the contrary wherever made.

(*b*) That this Congress adheres to the resolution passed at Delhi Congress regarding constitutional reforms and is of opinion that the Reforms Act is inadequate, unsatisfactory, and disappointing.

(*c*) That this Congress further urges that Parliament should take early steps to establish full responsible government in India in accordance with the principle of self-determination.

(*d*) Pending such introduction, this Congress trusts that, so far as may be possible, they so work the Reforms so as to secure an early establishment of full responsible government, and this Congress offers thanks to the Right Honourable Mr. E.S. Montagu for his labours in connection with the Reforms."[3]

Thus the year 1919, which had witnessed a veritable reign of terror, ended peacefully. "The events of 1919 burnt themselves deep into the soul of India" and remained "a symbol to the emotional Indians of all that was worst in British rule."[4]

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1. India in 1919, pp. 51-52.
2. "The total number of persons who were benefitted by the Amnesty exceeded 1,300." *Ibid.*, p. 53.
3. India in 1919, Appendix VII.
4. Duffet and others : India To-day.

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